The

Public Health Laws

OF

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Chapter 16. Code of West Virginia Public Health

ARTICLE 1. STATE DEPARTMENT OF HEALTH

Sec.

Section 1. Persons Included in Department.—There shall be a state department of health, which shall consist of a commissioner of health, whose office shall be located at the seat of government; a public health council, of which the commissioner shall be ex officio a member; directors of divisions, and other employees as herein provided. [1881, c. 60, §§1-4; 1882, c. 93, §§1-4; 1895, c. 7, §1; 1897, c. 51, §1; 1901, c. 56; §1; 1913, c. 24, §§1, 3, 4; 1915, c. 11, §1; Code 1923, c. 150, §1(1).]

Sec. 2. Commissioner of Health. — The commissioner of health shall be appointed by the governor, by and with the advice and consent of the senate, and shall be a physician, a graduate of a reputable medical college, of at least five years' experience in the practice of medicine, skilled in sanitary science, and experienced in public health administration. The commissioner of health in office on the date this Code takes effect shall, unless sooner removed, continue to serve until his term expires and his successor has been appointed and has qualified. On or before the first day of June, nineteen hundred and thirty-one and on or before the first day of June of each fourth year thereafter, the governor shall appoint a commissioner of health to serve for a term of four

years, commencing on said first day of June, and any commissioner shall be eligible for reappointment. The commissioner of health shall receive an annual salary of forty-eight hundred dollars and actual expenses incurred in the performance of official business, which salary shall be in full for all services. He shall be the administrative head of the state department of health and shall be ex officio a member of its public health council. His duties shall be to administer the laws and regulations of the department; to prepare rules and regulations for the consideration of the public health council; and, with the approval of said council, to appoint, remove and fix the compensation of the directors of divisions and all other employees, but said compensation shall not exceed the appropriation therefor; to advise with the public health council, keep himself informed as to the efficiency of each local health officer within the State; aid each health officer in the performance of his duties; assist each local health officer in making an annual sanitary survey of the territory within his jurisdiction, and in maintaining therein a continuous sanitary supervision; adjust questions of jurisdiction arising between local health officers within the State; study the cause of excessive mortality or morbidity from any disease in any portion of the State; promote efficient registration of births, deaths and notifiable diseases; inspect and report from time to time the sanitary condition of institutions, schools and school houses, public conveyances, dairies, creameries, slaughter houses, work shops, factories, labor camps, hotels and places where offensive trades or industries are conducted; inspect and report the sanitary condition of streams, sources of water supply and sewerage facilities; endeavor to enlist the cooperation of all physicians and volunteer health organizations in the improvement of public health; promulgate information to the general public in all matters pertaining to the public health. He shall perform all executive and other customary duties incident to his position as chief executive officer, and shall provide offices and equipment necessary for the transaction of the business of the state department of health out of funds appropriated for said department. He shall submit annually to the governor, on or before the first day of November, or as soon thereafter as practicable, a report of the operations of the department, with any recommendations he may have to make, which report shall be printed and distributed as soon as practicable thereafter in the same manner as other public documents of the State. The commissioner of health may direct any official or employee of the state department of health to assist in the study, control, suppression and prevention of diseases in any part of the State, and necessary expenses shall be paid while in the performance of such duty. [1915, c. 11, §2; 1919, c. 96, §2; Code 1923, c. 150, §1(2).]

Sec. 3. Public Health Council; Violation of its Regulations.—The public health council shall consist of the commissioner of health and seven other members, who shall be appointed by the governor, by and with the advice and consent of the senate. The commissioner and six of the members shall be graduates of reputable medical colleges and shall have had at least five years' experience in the practice of medicine. The other

member shall be a graduate of a reputable dental college, a member of the West Virginia state dental society and shall have had at least five years' experience in the practice of dentistry, and shall have the recommendation of the West Virginia state dental society. The members in office on the date this act takes effect shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and have qualified. On or before the first day of July, one thousand nine hundred and thirty-three, and on or before the first day of July of each alternate year thereafter, the governor shall appoint three medical members of the public health council, other than the commissioner of health, to serve for terms of four years, respectively, commencing on said first day of July. On or before the first day of July, one thousand nine hundred and thirty-three, and on or before the first day of July of every fourth year thereafter, the governor shall appoint the dental member, to serve for a term of four years, commencing on said first day of July, and any member shall be eligible for reappointment.

The public health council shall elect one of its members president, whose term of office shall be two years. The commissioner of health shall be secretary of the council. The public health council shall hold at least two meetings each year, and at such other times as it may prescribe by rule, or upon the request of the commissioner of health. A quorum of the council shall consist of not fewer than four members. Each member of the council, other than the commissioner, shall receive ten dollars for each day actually spent in attending the sessions of the council or of its committees and in necessary travel, not to exceed sixty days in any one calendar year, and shall be reimbursed for all actual and necessary traveling, incidental and clerical expenses incurred in the discharge of his duties. All authorized compensation and all expenses certified by the council as properly and necessarily incurred in the discharge of its duties shall be paid out of the state treasury, from funds appropriated for that purpose, on the warrant of the state auditor issued on requisitions signed by the president and secretary of the council.

It shall be the duty of the public health council to promulgate rules and regulations; take evidence in appeals; approve plans and appointments; hold hearings; advise with the commissioner of health; define the qualifications of local health authorities and directors of divisions and discharge other like duties. The public health council shall have power, by the affirmative vote of a majority of its members, to establish and from time to time amend regulations under the public health laws, the enforcement of which devolves upon the state commissioner of health. Every general regulation adopted by the public health council shall state the day on which it takes effect, and a copy thereof, duly signed by the commissioner of health, shall be filed in the office of the secretary of state, and a copy thereof shall be sent by the commissioner of health to each health officer within the State, and shall be published in such manner as the public health council may determine. Any violation of the regulations so promulgated, when said regulations are reason-

able and not inconsistent with law, shall be a misdemeanor, punishable by a fine of not less than ten dollars nor more than three hundred dollars, and, in the discretion of the court, by imprisonment in the county jail for not more than thirty days; *Provided, however,* That the dental member of the public health council shall have no duties or authority whatever in connection with the licensing of physicians or the regulation of the practice of medicine in this state. [1915, c. 11, §3; Code 1923, c. 150, §1(3); 1933, Reg. Sess., c. 2, §3.]

Sec. 4. Inspectors, Examiners and Employees.—Inspectors, examiners or other persons appointed by the commissioner of health may be appointed at such time or times as by him deemed necessary; and they shall act as representatives of the commissioner of health, and under his direction shall secure the enforcement of the provisions of the public health laws and regulations, and shall have the right of entry into any workshop, public school, factory, dairy, creamery, slaughter house, hotel, or other place of business or employment, or any common carrier or public utility, when in the discharge of official duties. Any person interfering with or attempting to interfere with any inspector, examiner or other duly authorized employee of the commissioner in the discharge of his duties under this section shall be guilty of a misdemeanor, and upon conviction, fined not exceeding one hundred dollars. [1915, c. 11, §4; Code 1923, c. 150, §1(4).]

Sec. 5. Divisions of Department; Directors.—There shall be in the state department of health the following divisions:

Division of communicable diseases;
Division of sanitary engineering;
Division of vital statistics;
Division of child hygiene.

The commissioner of health shall appoint, with the advice of the public health council, a director to take charge of each division, and shall prescribe, with the advice of the public health council, the duties pertaining to each division and arrangement of the subdivisions, if any, thereof. The directors of divisions shall be graduates of reputable colleges. [1915, c. 11, §5; 1919, c. 96, §5; Code 1923, c. 150, §1(5).]

Sec. 6. General Duties of State Department of Health. The state department of health shall have the authority to enforce all the laws of the state concerning the public health, and shall take care to protect the life and health of the inhabitants of the state, and to that end shall make or cause to be made sanitary investigations and inquiries respecting the cause of disease, especially of epidemic, endemics, and the means of prevention, suppression or control, the source of mortality and the effects of localities, employments, habits and circumstances of life on the public health, and shall gather information in respect to these matters and kindred subjects for diffusion among the people. It shall inspect and examine food, drink and drugs offered for sale or public consumption in such manner as

shall be deemed necessary, and shall report all violations of all laws of this state relating to pure food, drink and drugs to the prosecuting attorney of the county in which such violations occur, and lay before such prosecuting attorney the evidence in its knowledge of such violations. The commissioner of health or any member of the public health council may make complaint and cause proceedings to be instituted against any person or persons or corporation for a violation of any of the health laws of this state, without the sanction of the prosecuting attorney of the county in which proceedings are instituted, if said officer fail or refuse to discharge his duty, and in no such cases shall they be required to give security for costs.

The public health council shall promulgate and enforce regulations covering the design of all public water systems, plumbing systems, sewerage systems and sewage treatment plants, swimming pools and excreta disposal methods in West Virginia, whether publicly or privately owned, and the operation and qualifications of chlorination plant operators, chemists, bacteriologists and superintendents of filtration, or others who are in actual charge of the plant operation of all public water systems, sewage treatment plants and swimming pools.

Nothing herein contained shall be construed to give the state department of health the power to regulate or interfere with the drainage from any mine or manufacturing plant unless the drainage from said mine or manufacturing plant shall contain disease producing bacteria in sufficient numbers, to endanger health, organic or inorganic wastes of such nature as to cause the water intended for public or private water supplies to be unfit for use. [1919, c. 96, §6a; Code 1923, c. 150 §6a; 1939, c. 31.]

Sec. 7. Supervision Over Local Sanitation. No county or municipal government, public or private institution, firm, corporation or company, person or persons shall establish any system or method of drainage, water supply, excreta disposal or system of garbage and refuse disposal in West Virginia unless the same is installed in accordance with plans and instruction issued by the state department of health or has been approved in writing by the state health commissioner or his authorized representative.

Whenever the state health commissioner or his authorized representative finds upon investigation that any system or method of plumbing, drainage, water supply, excreta disposal or garbage or refuse disposal, whether publicly or privately owned, is such as to endanger the public health or is creating a nuisance that is detrimental to health, the state health commissioner or his duly authorized representative shall be empowered to issue an order requiring the owner of such system or method to make such alterations as may be required by the state health department to correct the improper condition within a reasonable time.

The personnel of the state health department shall be at the disposal of any county, municipality, firm, corporation, company, person or persons

to consult and advise with them as to the most appropriate design, method of operation or alteration of the systems or methods outlined in this section.

Any county, municipality, public or private institution, firm, corporation, company, person or persons who shall violate any provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred.

The provisions of this act shall be construed as separable and severable, and should any of the provisions or parts thereof be held to be unconstitutional, or for any reason invalid, the remaining portions shall not be affected thereby. All acts or parts of acts in conflict with this act are hereby repealed. [1919, c. 96, §a; Code 1923, c. 150, §6a; 1939, c. 31.]

Sec. 8. Supervision of State Tuberculosis Sanitariums; Suppression of Tuberculosis.—The state department of health shall have the advisory medical supervision of the Hopemont, Pinecrest and Denmar sanitariums, and the state board of control shall have the control of the business and fiscal affairs thereof. The director of the division of communicable diseases, under the supervision of the commissioner of health, shall encourage measures for the suppression of tuberculosis, such as clinics, camps, open-air schools, sanitariums, district nursing, anti-tuberculosis societies, diffusion of knowledge, and other means. [1915, c. 11, §11; Code 1923, c. 150, §4; 1933, 2nd Ex. Sess. c. 83, §1.]

Sec. 9. State Laboratory; Branches.—The state department of health may establish and maintain a state hygienic laboratory as an aid in performing the duties imposed upon the department by law, and may employ necessary chemists, bacteriologists, employees and agents. The commissioner of health may, with the advice of the public health council, establish branches of the state laboratory at such points within the State as he may deem necessary in the interest of the public health. [1881, c. 60, §16; 1882, c. 93, §16; 1913, c. 24, §16; 1915, c. 11, §13; Code 1923, c. 150, §§5, 16.]

Sec. 10. Expenditures of State Department of Health.—The state department of health shall have power to expend annually, for the purpose of performing the duties imposed or authorized by law, such sum as may be appropriated by the legislature for its use. The commissioner of health shall audit all bills, which shall be made out in due form and verified by the members of the public health council, directors of divisions, employees or agents rendering service or incurring expenses or traveling in the performance of the duties of their offices or employments. Such bills, when approved by the governor, shall be paid out of the state treasury. [1881, c. 60, §16; 1882, c. 93, §16; 1913, c. 24, §16; Code 1923, c 150, §16.]

Sec. 11. Disposition of Moneys Received by State Commissioner of Health; Report to Auditor.—The state commissioner of health, as secretary of the public health council, shall receive and account for all moneys required to be paid to the state public health council as fees for examining, licensing or registering applicants for license or registration, pursuant to the provisions of chapter thirty of this Code, and shall pay such moneys into the state treasury monthly, on or before the tenth day of the month succeeding the month in which such moneys were received. The commissioner of health shall, on the first days of January and July in each year, or within five days thereafter, certify to the state auditor a detailed statement of all such moneys received by him during the preceding six months. Any commissioner of health who shall fail to comply with the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined for each offense not less than fifty nor more than two hundred dollars. [1881, c. 60, §§17, 18; 1882, c. 93, §17; 1895, c. 7, §17; Code 1923, c. 150, §17.]

Sec. 12. Authority of State Health Officers to Administer Oaths and Take Affidavits.—The commissioner of health, other members of the state public health council, and directors of divisions shall have power to administer oaths and take and certify affidavits in any matter or thing pertaining to the business of the state department of health. [1882, c. 93, §18; Code 1923, c. 150, §18.]

Sec. 13. Appeals From Orders of Public Health Council.—Any person aggrieved by any order of the public health council or of any of its officers or agents may, within thirty days from the time such order takes effect, appeal to the circuit court of the county wherein his property rights or personal liberties have been affected. [1915, c. 11, §13; Code 1923, c. 150, §5.]

ARTICLE 2. LOCAL HEALTH OFFICERS

Sec.

1. County and municipal health officers; county board of health; reports by physicians.
2. Full-time county and municipal health officers; full-time public health nurse; levy.
3. Counties may combine in employment of officers and installation and maintenance of equipment.
4. State health department may supplant local health authority; removal of delinquent local officer.

Section 1. County and Municipal Health Officers; County Board of Health; Reports by Physicians.—It shall be the duty of the state public health council, upon the recommendation of the county court of the county, to appoint in each county of this State a legally qualified physician, who shall be known as the county health officer. It shall also be the duty of the public health council, upon the recommendation of the municipal council or other governing body of any municipality, to appoint in such municipality a legally qualified physician, who shall be known as the municipal health officer: *Provided, however,* That no municipality organized and existing without a special charter from the legislature and located within a county which maintains a full-time county health officer, shall appoint a part-time municipal health officer. The county and municipal health officers in office on the date this Code becomes effective shall, unless sooner removed, continue to serve until their respective terms expire, and until their successors have been appointed and have qualified. Beginning on the first day of July, nineteen hundred and thirty-three, and on the first day of July of each fourth year thereafter, a county health officer shall be appointed as aforesaid to serve for a term of four years, unless sooner removed by the said county court or by the public health council. Beginning on the first day of July, nineteen hundred and thirty-one, and on the first day of July of each alternate year thereafter, a municipal health officer shall be appointed as aforesaid to serve for a term of two years, unless sooner removed by the said municipality or by the public health council. Should the public health council fail to confirm the nomination of the person recommended as county or municipal health officer, or should the public health council or the county or municipal authority remove any such officer, another nomination shall at once be made to the public health council by the nominating authority.

The county health officer shall receive an official salary of not less than three hundred dollars per annum, and such other amount as the county court may add for additional services, and actual necessary traveling expenses, unless for work specially done under orders of the state department of health. The salary of the county health officer shall

be paid out of the treasury of the county. It shall be the duty of every practicing physician to report to the municipal health officer, where there is such official, immediately on diagnosis, every case of communicable or infectious disease that may arise or come under his treatment within the municipality, and to the county health officer cases occurring outside of the municipality, and also, where there is no municipal health officer, cases occurring within such municipality. The health officer receiving such reports shall make to the state health department a weekly report of all such cases, stating the number of each kind of disease reported, the action taken to arrest the infection, and the result.

The county health officer together with the president of the county court and the prosecuting attorney shall constitute the county board of health, of which the county health officer shall be the executive officer. The county board of health shall exercise all the powers, and enforce all the rules and regulations of the state public health council, so far as applicable to such county. In a county which has a full-time county health officer, the jurisdiction of the county board of health and of the county health officer shall be coextensive with the county, and shall include every city, town and village therein which does not have a full-time health officer of its own, but shall not include any city, town or village therein which has such full-time health officer. But in a county which has a part-time health officer only, the jurisdiction of the county board of health and of such part-time health officer shall not extend to any city, town or village therein having a full-time or part-time health officer of its own. All county and municipal boards of health and health officers shall be secondary to the state public health council, and subject to all orders of such public health council, which may, if deemed expedient, act through the county and municipal boards.

Any failure to comply with any of the provisions of this section shall constitute a misdemeanor, and, upon conviction thereof, the offender shall be fined not more than one hundred dollars. [1881, c. 60, §6; 1882, c. 93, §6; 1887, c. 64, §6; 1907, c. 66, §6; 1913, c. 24, §6; 1919, c. 96, §6; Code 1923, c. 150, §6.]

Sec. 2. Full-Time County and Municipal Health Officers; Full-Time Public Health Nurse; Levy.—The county court of any county or the municipal council or other governing body of any municipality shall have the power and authority to provide for a full-time county or municipal health officer and the expenses of his administration, and for that purpose may levy a county or municipal tax, as the case may be, of not exceeding three cents on each one hundred dollars' assessed valuation of the taxable property in such county or municipality according to the last assessment thereof. Such health officer shall be a legally qualified physician, and shall be nominated and appointed in the manner provided in section one of this article. He shall devote his entire time to the duties of his office in protecting and supervising the general health and sanita-

tion of his county or municipality, including medical attendance by the county health officer upon the indigent of the county in the infirmary, and shall perform such duties in relation thereto as may be prescribed by order of the county court or ordinance of the municipality duly entered or enacted, or by order of the state public health council.

The county court of any county or the municipal council or other governing body of any municipality which has not provided for a full-time health officer, may provide for a full-time public health nurse and the expenses of her administration, and for that purpose may levy a county or municipal tax, as the case may be, of not exceeding two cents on each one hundred dollars' assessed valuation of the taxable property in such county or municipality according to the last assessment thereof. Such public health nurse shall be a legally qualified nurse suitably trained in sanitary science and her qualification shall be satisfactory to the state public health council. She shall be nominated and appointed in the manner provided in section one of this article. She shall devote her entire time to the duties of her office in protecting and supervising the general health and sanitation of her county or municipality, and shall perform such duties in relation thereto as may be prescribed by order of the county court or ordinance of the municipality duly entered or enacted, or by order of the state public health council. [1919, c. 96, §3a; Code 1923, c. 150, §3a; 1925, c. 25, §3a.]

Sec. 3. Counties May Combine in Employment of Officers and Installation and Maintenance of Equipment.—Any two or more counties may combine to cooperate with the state department of health, either by special vote or by vote of their respective boards of health, and participate in the employment of trained health officers and other agents or in the installation and maintenance of a common laboratory and other equipment. Whenever such counties shall decide so to cooperate and shall appropriate a sum or sums of money for such joint or cooperative action, a sum equal to two-fifths of the total amount contributed by the cooperating counties shall be added thereto from the appropriation made for the state department of health: *Provided*, That the general plan of cooperation, as well as the principal health officer, executive agent or laboratory director employed by such counties, shall first have been approved by the public health council. [1915, c. 11, §13; Code 1923, c. 150, §5.]

Sec. 4. State Health Department May Supplant Local Health Authority; Removal of Delinquent Local Officer.—When, in the opinion of the public health council, any local health authority shall fail or refuse to enforce necessary laws and regulations to prevent and control the spread of communicable or infectious disease declared to be dangerous to the public health, or when, in the opinion of the said council, a public health emergency exists, the commissioner of health may enforce the rules and regulations of the state department of health within the territorial jurisdiction of such local health authorities, and for that

purpose shall have and may exercise all the powers given by law to local health authorities. All expenses so incurred shall be a charge against the counties, cities, or towns concerned. And in such cases the failure or refusal of any local health officer or local health body to carry out the lawful orders and regulations of the public health council shall be sufficient cause for the removal of such local health officer or local health body from office, and upon such removal the proper county or municipal authorities shall at once nominate a successor, other than the person removed, as provided by law. [1915, c. 11, §9; Code 1923, c. 150, §3.]

ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND INFECTIOUS DISEASES

Sec.

Section 1. State Department of Health May Establish Quarantine and Control Epidemics.—The state department of health is empowered to establish and strictly maintain quarantine at such places as it may deem proper, and forbid and prevent the assembling of the people in any place, when the public health council or the state commissioner of health or any county or municipal health officer deems that the public health and safety so demand, and may adopt rules and regulations to obstruct and prevent the introduction or spread of smallpox or other communicable or infectious diseases into or within the State, and shall have the power to enforce these regulations by detention and arrest, if necessary. It shall have power to enter into any town, city, factory, railroad train, steamboat or other place whatsoever, and enter upon and inspect private property for the purpose of investigating the sanitary and hygienic conditions and the presence of cases of infectious diseases, and may, at its discretion, take charge of any epidemic or endemic conditions, and enforce such regulations as it may prescribe. All expenses incurred in controlling any endemic or epidemic conditions shall be paid by the county or municipality in which such epidemic occurs. [1881, c. 60, §5; 1882, c. 93, §5; 1887, c. 64, §5; 1913, c. 24, §5; 1915, c. 11, §7; 1919, c. 96, §2; Code 1923, c. 150, §2.]

Sec. 2. Powers of County and Municipal Boards of Health to Establish Quarantine; Penalty for Violation.—The county board of health of any county may declare quarantine therein, or in any particular district or place therein, whenever in their judgment it is necessary to prevent the spread of any communicable or infectious disease prevalent therein,

or to prevent the introduction of any communicable or infectious disease prevailing in any other state, county or place, and of any and all persons and things likely to spread such infection. As soon as such quarantine is established such board shall, in writing, inform the state commissioner of health thereof, whose duty it shall be to ascertain, as soon as practicable, the necessity therefor, if any exists, and if he finds that no such necessity exists, he shall declare the same raised. The said county board of health shall have power and authority to enforce such quarantine until the same is raised as aforesaid, or by themselves, and may confine any such infected person, or any person liable to spread such infection, to the house or premises in which he resides, or if he has no residence in the county, at a place to be provided by them for the purpose; and if it shall become necessary to do so, they shall summon a sufficient guard for the enforcement of their orders in the premises. Every person who shall fail or refuse to comply with any order made by such board under this section, and every person summoned as such guard who shall, without a lawful excuse, fail or refuse to obey the orders and directions of such board in enforcing said quarantine, shall be guilty of a misdemeanor, and for such offense shall be fined not less than twenty-five nor more than two hundred dollars. In cases of emergency or of actual necessity, and when the court or corporate authorities are from any cause unable to meet or to provide for the emergency or the necessity of the case, all actual expenditures necessary for local and county quarantine, as provided for in this section, shall be certified by the county board of health to the county court, and the whole, or as much thereof as the said court may deem right and proper, shall be paid out of the county treasury. The board of health of any city, town or village shall have, within the municipality, the same powers and perform the same duties herein conferred upon and required of the county board of health in their county. So far as applicable the provisions of this section shall apply to any quarantine established and maintained by the state department of health pursuant to section one of this article. [1881, c. 60, §7; 1882, c. 93, §7; Code 1923, c. 150, §7.]

Sec. 3. Cummunicable Diseases on Vessels or Trains.—The state department of health, its agents and employees, and the local boards of health, in the absence of the state department, its agents and employees, when they have reason to believe that any steamboat or other water craft navigating the Ohio River or its tributaries in this State, or any other of the waters of the State, or bordering thereon, is infected with any communicable disease, may prevent the landing of such boat or craft at any point in this State. They may also, if they have reason to believe that any railroad train, coach or other vehicle passing on or along any railroad in this State, contains any person having a communicable disease or any thing infected with contagious matter, detain such train, coach or vehicle at any station or point on such railroad where it can be done with safety, for a time sufficient to examine the same, and if found to be so infected, for a time sufficient to disinfect the same; and if the conductor or person in charge of such train, coach or vehicle, shall wilfully

fail or refuse to stop the said train, coach or vehicle for the time aforesaid, he shall be guilty of a misdemeanor and punished as prescribed in section two of this article. [1881, c. 60, §8; 1882, c. 93, §8; Code 1923, c. 150, §8.]

Section 4. Compulsory Immunization of School Children; Offenses; Penalties.—All children entering school for the first time in this state shall be or shall have been successfully immunized against smallpox and diphtheria. Any person who cannot give satisfactory proof of having been immunized previously or a certificate from a reputable physician showing that a successful immunization for either or both smallpox and diphtheria is impossible or improper or sufficient reason why either or both immunizations should not be done, shall be immunized for both smallpox and diphtheria within the first month of attendance at school. No child or person shall be admitted or received in any of the public schools of the state after the first month of attendance at school until he or she has been successfully immunized as hereinafter provided, or produces a certificate from a reputable physician showing that a successful immunization for both smallpox and diphtheria has been done or is impossible or improper or other sufficient reason why such immunizations have not been done. The teacher of such pupils entering school for the first time shall ascertain whether or not said pupils have been immunized against both smallpox and diphtheria and shall report to the county health officer all pupils who have not been immunized. It shall be the duty of the health officer in counties having a full-time health officer to see that children who have not been immunized before entering school be immunized during the first month.

In counties where there is no full-time health officer or district health officer, the county court or municipal council shall appoint competent physicians to do the immunizations and fix their compensation. The expense incurred in carrying into effect the provisions of this section shall be deemed a part of the expense of the county, city, town or village as the case may be, and shall be charged and paid in the same manner as other expenses. County health departments shall furnish the biologicals for this immunization free of charge.

Health officers and physicians who shall do this immunization work shall give to all persons and children a certificate free of charge showing that they have been successfully immunized against smallpox and diphtheria, or he may give the certificate to any person or child whom he knows to have been successfully immunized against smallpox and diphtheria. If any physician shall give any person a false certificate of immunization against either smallpox or diphtheria, he shall be guilty of a misdemeanor and upon conviction he shall be fined not less than twenty-five nor more than one hundred dollars.

Any parent or guardian who refuses to permit their child to be immunized against smallpox or diphtheria, who cannot give satisfactory proof that the child or person has been immunized against smallpox and diph-

theria previously or a certificate from a reputable physician showing that a successful immunization for either or both is impossible or improper or sufficient reason why either or both immunizations should not be done, shall be guilty of a misdemeanor, and, except as herein otherwise provided, shall be punished by a fine of not less than ten nor more than fifty dollars for each offense. [1887, c. 64, §21; 1905, c. 58, §21; Code 1923, c. 150, §21; 1937, c. 129.]

Sec. 5. Free Serum or Vaccine Preventives of Disease.—The state commissioner of health shall purchase vaccine lymph, diphtheria antitoxin, tetanus antitoxin and such other forms of serum or vaccine preventives of disease as he may deem necessary, and shall distribute the same, free of charge, in such quantities as he may deem necessary, to county and municipal health officers, to be used by them for the benefit of, and without expense to the indigent poor within their respective jurisdictions, and in other cases where it may be urgently necessary to check contagions and control epidemics.

The state commissioner of health shall also deliver, free of charge, to such drug stores or other stores within each county as the health officer of such county may designate as proper depositories, such quantities of diphtheria antitoxin as said commissioner may deem necessary for the use of the indigent poor of such county, and such antitoxin shall be kept at said drug stores or other stores at all times and in sufficient quantities to permit immediate delivery to any licensed physician who may require the same for the treatment of any indigent person infected with diphtheria, or to prevent such infection, without cost to the patient so treated. The state commissioner of health shall take a receipt from the proprietor of each drug store or other store for any antitoxin delivered as herein provided.

The auditor of the State shall pay the actual cost of all said serum and vaccine preventives and the cost of delivering said diphtheria antitoxin to any drug store or other store, upon the presentation of the original invoices thereof, duly verified by affidavit and approved by the state health commissioner, and shall in addition pay to said drug stores or other stores, for delivery of said diphtheria antitoxin to the physicians aforesaid, a commission of ten percent of the original cost of said antitoxin so delivered. [1913, c. 24, §5; 1915, c. 11, §7; 1919, c. 96, §2, c. 10, §§1, 2; Code 1923, c. 150, §§2, 21a, 21b.]

Sec. 6. Nuisances Affecting Public Health.—The state commissioner of health or any county or municipal health officer shall inquire into and investigate all nuisances affecting the public health within his jurisdiction; and any such officer or the county court of any county or any municipality is authorized and empowered to apply to the circuit court of the county in which any such nuisance exists, or to the judge thereof in vacation, for an injunction forthwith to restrain, prevent or abate such nuisance. [1915, c. 11, §8; 1919, c. 96, §2; Code 1923, c. 150, §2.]

Sec. 7. Inflammation of the Eyes of the New-Born.—Any inflammation, swelling, or unusual redness in either one or both eyes of any infant, either apart from, or together with any unnatural discharge from the eye or eyes of such infant, independent of the nature of the infection, if any, occurring at any time within two weeks after the birth of such infant, shall be known as "inflammation of the eyes of the new-born" (ophthalmia neonatorum.) [1919, c. 125, §1; Code 1923, c. 150, §31(1).]

Sec. 8. Same; Duty of Those Assisting at Childbirth to Report Cases; Treatment.—It shall be the duty of any physician, surgeon, obstetrician, midwife, nurse, maternity home or hospital of any nature, parent, relative and persons attendant on or assisting in any way whatsoever any infant, or the mother of any infant, at childbirth, or at any time within two weeks after childbirth, knowing that the condition described in the preceding section exists, immediately to report such fact in writing to the local health officer of the county or municipality within which the infant or the mother of any infant may reside. In the event of there being no health officer in such county or municipality, the nurse or midwife in attendance shall immediately report the condition to some qualified practitioner of medicine and thereupon withdraw from the case except as she may act under the physician's instructions. On receipt of such report, the health officer, or the physician notified by a midwife where no health officer exists, shall immediately give to the parents or persons having charge of such infant a warning of the dangers to the eye, or eyes, of said infant, and shall for indigent cases provide the necessary treatment at the expense of said county or municipality. [1919, c. 125, §2; Code 1923, c. 150, §31(2).]

Sec. 9. Same; Duties of Local Health Officer.—It shall be the duty of the local health officer to investigate, or have investigated, every such case reported to him in pursuance of law, and any other cases that may come to his attention; to report all cases of inflammation of the eyes of the new-born and the result of all such investigations as the public health council shall direct; and to conform to such other rules and regulations as the public health council shall promulgate for his further guidance. [1919, c. 125, §5; Code 1923, c. 150, §31(5).]

Sec. 10. Same; Use of Silver Nitrate Drops as Prophylactic; Birth Report.—It shall be unlawful for any physician, or midwife practicing midwifery, to neglect or otherwise fail to instill or have instilled, immediately upon its birth, in the eyes of the new-born babe, one or two drops of a one per cent solution of silver nitrate, furnished by the public health council. Every physician or midwife shall, in making a report of a birth, state whether or not the above solution was instilled into the eyes of said infant. [1919, c. 125, §§3, 4; Code 1923, c. 150, §31(3) (4).]

Sec. 11. Same; Duty of Clerk of County Court.—It shall be the duty of the clerk of the county court of each county, on or before the fifteenth day of each month, to certify to the prosecuting attorney of his county

all reports of births filed during the preceding calendar month which fail to show that the solution hereinbefore provided for was instilled. [1919, c. 125, §7; Code 1923, c. 150, §31(7).]

Sec. 12. Same; Duties of Public Health Council.—It shall be the duty of the public health council:

(a) To enforce the provisions of sections seven to thirteen, inclusive, of this article;

(b) To promulgate such rules and regulations as shall be necessary for the purpose of enforcing said provisions, and such as the public health council may deem necessary for the further and proper guidance of local health officers;

(c) To provide for the gratuitous distribution of one percent solution of silver nitrate outfits, together with proper directions for the use and administration thereof, to all physicians and midwives who may be engaged in the practice of obstetrics, or assisting at childbirth;

(d) To publish and promulgate such further advice and information concerning the dangers of inflammation of the eyes of the new-born as is necessary for prompt and effective treatment;

(e) To furnish copies of sections seven to thirteen, inclusive, of this article to all physicians and midwives who may be engaged in the practice of obstetrics, or assisting at childbirth;

(f) To keep a proper record of any and all cases of inflammation of the eyes of the new-born that shall be filed in the office of the public health council in pursuance of this law, and that may come to their attention in any way, and to constitute such records a part of the annual report to the governor;

(g) To report any and all violations of said provisions that may come to their attention to the prosecuting attorney of the county wherein said misdemeanor may have been committed, and to assist said official in any way possible, as by securing necessary evidence, et cetera. [1919, c. 125, §6; Code 1923, c. 150, §31(6).]

Sec. 13. Same; Offenses; Penalties.—Whoever, being a physician, surgeon, midwife, obstetrician, nurse, manager or person in charge of a maternity home or hospital, parent, relative, or person attending upon or assisting at the birth of an infant, violates any of the provisions of sections eight or ten of this article, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than fifty dollars. [1919, c. 125; §8; Code 1923, c. 150, §31(8).]

ARTICLE 4. VENEREAL DISEASES

Sec.

Section 1. Venereal Diseases; Definition and Nature; Prostitution.—Syphilis, gonorrhea, and chancroid, herein designated as venereal diseases, are hereby declared to be infectious, contagious, communicable, and dangerous to the public health. Prostitution is hereby declared to be a prolific source of such diseases; and the repression of prostitution is hereby declared to be a health measure. [1921, c. 138, §1; Code 1923, c. 150, §32(1).]

Sec. 2. Investigations by Local Health Officers.—It shall be the duty of all municipal and county health officers to use every available means to ascertain the existence of, and to investigate all cases of, syphilis, gonorrhea, and chancroid, coming within their respective jurisdictions, and, when it is necessary, have all such cases treated, if they are not already under treatment, and to ascertain the sources of such infection, and to institute measures for the protection of other persons from in-

fection by such venereally infected person, or from persons reasonably suspected of being so infected, and for the protection of the public health at all times, and to this end said health officer, if he be a municipal health officer, may designate any member of the city police or health department to make any investigation contemplated hereunder; and, if a county health officer, he may designate any discreet person to do so; and while such persons are conducting such investigations they shall have all authority necessary for the purpose, the same as the health officer himself. [1921, c. 138, §2; Code 1923, c. 150, §32(2).]

Sec. 3. Medical Clinics and Detention Houses.—In order to carry out the provisions of the last section, any health officer may, if he be a municipal health officer, with the consent of the municipal council or other body having proper authority, or if he be a county health officer, with the consent of the county commissioners or other tribunal, establish, either independently or in cooperation with other agencies, one or more medical clinics within their respective jurisdictions, and may also, with like consent, establish or provide one or more places for detention and quarantine of such persons as may come within the purview of this article. [1921, c. 138, §3; Code 1923, c. 150, §32(3).]

Sec. 4. Evidence of Infection.—The following shall be prima facie grounds and reasons for suspecting that such persons are infected with a venereal disease, that is, with syphilis, gonorrhea or chancroid:

(a) Being a common prostitute, that is, a person commonly reputed in the neighborhood where he or she lives as practicing promiscuous sexual intercourse, whether such person be male or female;

(b) Being a person known to be associating with prostitutes;

(c) Being a person who has been convicted in any court, or before a police judge, or before a justice of the peace, upon any charge growing out of sex-immorality, such as keeping a house of ill-fame or bawdy house, or loitering in any such house, or of street-walking, fornication or adultery;

(d) Being a person heretofore arraigned upon any charge as set out in the last subsection, where the evidence does not justify a conviction but does raise the inference that such person is infected with a venereal disease;

(e) Being a person heretofore reported by a physician as infected with a venereal disease, where such person is afterwards reported as having failed to return for treatment;

(f) Being a person designated in a venereal disease report as the source of such infection of the person reported. [1921, c. 138, §4; Code 1923, c. 150, §32(4).]

Sec. 5. Examination of Convicts.—When any person has been tried and convicted in any police court, or in any criminal or circuit court, or before a justice of the peace, upon any charge or offense growing out of

sex-immorality, such as has been set out in the last preceding section, said person shall not be released from custody by the judge, justice, or police officer trying the case until the local health officer having proper jurisdiction has been notified and has had time to make all necessary tests and examinations to ascertain whether in fact such person is infected with a venereal disease, and all necessary expenses for holding such person in custody pending examination and treatment, if needed, shall be a proper charge against the municipality, if the offense was committed within it, or against the county in which the offense was committed, if committed outside of a municipality; and every municipality, whether it be a county seat or not, shall be liable under this section. [1921, c. 138, §5; Code 1923, c. 150, §32(5).]

Sec. 6. Reports by Physicians.—It shall be the duty of every practicing physician or other person who makes a diagnosis in, or treats a case of, syphilis, gonorrhea or chancroid, to make two reports of the case, as follows: One report shall be made to the local municipal health officer, if the party for whom the diagnosis was made or case treated lives within any municipality having a health officer, and if the municipality has no health officer, or if the party lives outside of a municipality, then to the health officer of the county in which such person lives; the second report shall be made to the director of the bureau of venereal diseases of the State. And every superintendent or manager of a hospital, dispensary, or charitable or penal institution in which there is a case of venereal disease shall report the same under like conditions.

The reports above required shall state the street number and address of the person reported as diseased, the age, sex, color, marital state and occupation of such person, the date of the onset of the disease, the source of infection, whether said disease is in an infectious stage, and whether the person reported is at the time of making report engaged in any occupation forbidden under this article and hereafter mentioned. The reports, when made out, shall be mailed or handed to the parties to whom they are directed to be made within forty-eight hours after a diagnosis is made or treatment started; and the municipal health officer or county health officer, as the case may be, shall file and preserve said reports, and they shall be open to inspection by the director of the bureau of venereal diseases of the State, or any proper person, an employee of said bureau, whose duties may be connected with the enforcement of laws against venereal diseases, by any member of the state public health council, and by local health officers, or officers whose duties are connected with executing the laws against these diseases. [1921, c. 138, §6; Code 1923, c. 150, §32(6).]

Sec. 7. False Report or Information.—Any physician or other person required to make reports of a venereal disease hereunder, or who is required to report the failure of any patient to return for further treatment, who fails or refuses to make any such reports, or who knowingly reports a person under a false or fictitious name or address, or who

makes any other statements on any report which he has reason to believe are untrue, shall be guilty of a misdemeanor, and shall be punished as hereinafter provided; and each report that should have been made, and each name that should have been given, and each address that should have been given, or have been wrongfully reported or given, shall be a separate offense; and a second conviction of a physician for failure to comply with any provision of this section shall be sufficient ground and reason for the state public health council to revoke the license of such physician. Any person suffering with a venereal disease, whose name is required to be reported hereunder, who gives to the physician or person required to make reports herein required a false or fictitious name or address, or who shall fail or refuse to answer any proper question required to be reported hereunder, or who makes any false statement in answer to any such question, shall be guilty of a misdemeanor, and shall be punished as hereafter provided. [1921, c. 138, §7; Code 1923, c. 150, §32(7).]

Sec. 8. Blanks and Fees for Reports.—It shall be the duty of the local health officers to furnish report blanks to physicians or other persons who need them, for the purpose of making reports required to be made to them, and of the director of the bureau of venereal diseases to furnish blanks for reports to be made to the said bureau; and counties and municipalities may, if they choose, pay persons, for making such reports as are to be made to county and municipal health officers, the sum of not to exceed twenty-five cents for each report so made. [1921, c. 138, §8; Code 1923, c. 150, §32(8).]

Sec. 9. Treatment.—It shall be the duty of every physician or other person who examines or treats a person having syphilis, gonorrhea, or chancroid, to instruct said person in measures for preventing the spread of such disease, and to inform him of the necessity of taking treatment until cured, and all such persons who were examined and found infected, or are being treated as above set out, shall follow such directions and take such precautions as are necessary and are recommended, and every person starting to take treatment shall continue such treatment until discharged by said physician or other person treating him, and any failure to return for further treatment within ten days after the last date set by said physician or other person for said patient to return for further treatment, without lawful excuse therefor, shall be a misdemeanor and such person shall be punished as hereinafter provided. After ten days mentioned above for the patient to return for treatment shall have expired, the physician or other person to whom said patient should have returned for treatment shall, unless he has knowledge of good reasons why said patient failed to return, make a report of the facts in the case to the local health officer having proper jurisdiction, and said local health officer shall at once make an investigation to ascertain why said patient failed to return, and shall take any steps necessary in the matter to protect the public health, and to this end he may arrest,

detain and quarantine said patient so failing to return for treatment. [1921, c. 138, §9; Code 1923, c. 150, §32(9).]

Sec. 10. Minors.—Whenever a venereal disease report shows that the person infected is a minor, the local health officer to whom the report is made shall at once notify the parents of such minor of the fact appearing upon the report, or the guardian, if there are no parents, and if the minor be under eighteen years of age, said local health officer may notify the judge of the juvenile court, or other court having jurisdiction, and if the parents or guardian fail or refuse to assist in controlling the minor and securing treatment therefor, and if, after five days from the time said parents or guardian should have received said notice, nothing has been heard from them, said local health officer shall take any other steps necessary to protect the public health. [1921, c. 138, §10; Code 1923, c. 150, §32(10).]

Sec. 11. Precautions as to Exposure to Disease.—Whenever any attending physician or other person knows or has good reason to believe that any person having syphilis, gonorrhea or chancroid, is so conducting himself or herself, or is about to so conduct himself or herself, in such manner as to expose other persons to infection, such physician or other person shall at once notify the local health officer having jurisdiction of the facts in the case, giving the name and address of the party; and said local health officer upon receipt of such notice shall at once cause an investigation to be made to ascertain what should be done in the premises, and may do whatever is necessary to protect the public health. [1921, c. 138, §11; Code 1923, c. 150, §32(11).]

Sec. 12. Persons Not Under Treatment.—Where a venereal disease report shows the person is suffering with such disease in an infectious stage, and is not under treatment, the local health officer shall at once investigate and ascertain whether such person so reported is conducting himself so as to expose others to infection, and shall take such action as is necessary to protect the public health, and may arrest, detain and quarantine such person if necessary. [1921, c. 138, §12; Code 1923, c. 150, §32(12).]

Sec. 13. Sources of Infection.—Whenever it shall appear from any venereal disease report made by a physician, or other person, or otherwise, or whenever other reasonable facts are brought to the attention of any local health officer having proper jurisdiction which show that any hotel, boarding house, rooming house, or other house, place or thing is the source of infection of a venereal disease, without such report or other facts showing the particular person or thing therein as the source of such infection, then the local health officer shall at once notify the owner, proprietor or person operating, running or managing said hotel, boarding house, rooming house, or other house, or place, of the essential facts in the case; and if the place reported as being the source of such

infection be a place or house, commonly reputed in the neighborhood to be a house or place of prostitution, or house or place of like character or kind, or is commonly known to be such by the police of the city (if in any municipality), then the proprietor, manager or operator of such house and all the inmates therein shall be apprehended and dealt with the same as other persons are arrested, detained, examined, quarantined, and treated, if found infected with a venereal disease. [1921, c. 138, §13; Code 1923, c. 150, §32(13).]

Sec. 14. Issuance of Warrant or Order as to Custody.—Upon receipt of a written report or of any other reliable information by the local health officer that any person infected with a venereal disease in an infectious stage is conducting himself or herself, or is about to conduct himself or herself, so as to infect others, or expose others to infection; or that a person infected with a venereal disease under treatment; or that any person is a prostitute, or person associating with prostitutes, and is reasonably suspected of being infected, or of conducting himself or herself so as to infect others; or that a person has been convicted in any court or municipality, or before a justice of the peace, of an offense growing out of sex-immorality; or that a person is being held by any court, municipality, or justice of the peace, pending an examination for a venereal disease; or that a certain person has been reported in a venereal disease report as the source of a venereal disease; or when any other facts are brought to the attention of the local health officer having proper jurisdiction, showing that any person is reasonably suspected of being infected with a venereal disease, or is about to conduct himself or herself so as to infect others, said health officer shall at once issue his warrant or order, if the party be not already in custody, and shall proceed as hereinafter provided. [1921, c. 138, §14; Code 1923, c. 150, §32(14).]

Sec. 15. Form and Execution of Warrant. — Such warrant or order mentioned in the preceding section shall be directed to the chief of police if within a municipality, or to any sheriff or constable if without, or to any other officer qualified to execute process, directing said officer to apprehend the person mentioned therein, and to bring said party before the said health officer at a time and place set out in the warrant or order, there to be further dealt with as provided by law; and said officer to whom the warrant is directed shall execute the same as are other papers of like character or kind. And pending a hearing in the matter said officer may for safe-keeping, lodge said person so apprehended under warrant, in jail, or in any other place of detention that may have been provided for such persons; but the health officer may by indorsement on the warrant at the time of its issuance direct any other disposition to be made of the person arrested, before trial, as to him shall appear proper, and said officer executing the warrant shall be guided thereby, but said officer shall not be held responsible should the person arrested escape. Said warrant above required to be issued shall be suffi-

cient if it is in words and figures as follows (the blanks to be filled as necessary in each case):

State of West Virginia, Office of_____
County (or City) of_____County (or City) of_____.

_____Officer.

To_____, Chief of Police, Sheriff or Constable of_____City, of County of_____:

It having been brought to the attention of the undersigned health officer for (city or county) of_____, West Virginia, that_____, reported as living or residing at_____, in said (city or county), is infected, or is reasonably suspected of being infected, with one or more venereal diseases, to-wit: syphilis, gonorrhea, and chancroid, by reason of the fact that said_____has been reported as (set out any reasons set in section 14, or other reasons)

_____

_____

and therefore reasonably suspected of being so infected; and as such diseases have been declared to be infectious, contagious, communicable, and dangerous to the public health.

These are therefore to command you to apprehend the said_____, if found within your bailiwick, and to bring_____before me at my office in the city or county of_____on the_____day of_____19_____, at_____o'clock, _____M., there to be further dealt with as provided by law.

Given under my hand, this the_____day of_____19_____.

_____

Health Officer or Commissioner.
City (or County) of_____
West Virginia.

[1921, c. 138, §15; Code 1923, c. 150, §32(15).]

Sec. 16. Hearing on Warrant; Detention. — When a party is brought in for a hearing upon arrest under the warrant provided in the preceding section, the health officer shall at once proceed to ascertain the facts in the case, and to this end he may summon witnesses, and administer oaths to such witnesses touching their testimony, and may commit for contempt for failure to answer proper questions, and may, if proper, discharge the party from further custody; but if from the testimony it appears that the party so apprehended is properly classifiable under any subdivision of section four of this article, touching persons reasonably suspected of being infected with a venereal disease, then such party shall not be released from custody until proof has been made showing the party is already under treatment from a reputable physician, or other person, or until an examination has been made to ascertain whether in fact said party is so infected, and results of all tests and examinations are known, and shall make all orders touching the care, custody, and examination of the party as are reasonably necessary in the premises, and if it is found that said party is infected, then he may make any other orders that may be necessary touching the treatment of such party, and if said party is suffering with one or more venereal diseases in an infectious stage, said party shall not be released from custody until the diseases are past such infectious stage, and said party may be detained or quarantined in any place or institution provided for the purpose, or in the patient's own home if the health officer thinks best; and if no other place is available for such purposes, then such party shall be detained in the city or county jail, as the case may be. And it shall be the duty of every city and every county in the State to take this contingency in hand when they are making up their estimates for taxation and levy purposes and to provide therefor. [1921, c. 138, §16; Code 1923, c. 150, §32(16).]

Sec. 17. Release from Detention.—If as a result of the tests and examination provided to be made in the preceding section, it is shown that the party so examined is suffering with a venereal disease, not in an infectious state, said party may be released from further detention upon signing the agreement herein required to be provided, and which agreement shall be signed by the persons who have become non-infectious under treatment and detention, but who have not been cured. All persons signing the agreement mentioned above shall observe its provisions; and any failure to do so shall be deemed a misdemeanor, and shall be punished as hereinafter provided. The agreement mentioned above shall be sufficient if in words and figures following, after the blanks have been filled to suit each individual case:

Agreement to be signed by persons who are suffering with a venereal disease and are to be released from detention or quarantine, before being cured, or by persons who voluntarily submit themselves for treatment to the health clinics as provided by law.

State of West Virginia, County (or city) of.....

Witnesseth, That I, ..., residing at ....., in the county of....., State of West Virginia, do hereby acknowledge the fact that I am at this time infected with a venereal disease, to-wit: with..... and that I agree to place myself under the care of ..... within.....hours hereafter, and that I will remain under treatment of said physician or clinic until released by the health officer of..... or until my case is transferred with the approval of said health officer to another regularly licensed physician or approved clinic; and that I further agree to report to the health officer above, within four days after beginning treatment from the above physician or clinic, of the medical treatment applied in my case, and that I will report thereafter as often as may be required of me by the health officer; and that I further agree to take all the precautions recommended by the health officer to prevent the spread of the above disease to other persons, and to this end that I will perform no act that might expose other persons to the above disease; and that I further agree, until finally released by the health officer, to notify him of any change in my address, and to obtain his consent before moving my abode outside his jurisdiction.

Witness my hand, this the..... day of....., 19.....

.....

(Signature of Patient)

Approved this the ..... day of....., 19.....

.....

(Local Health Officer)

[1921, c. 138, §17; Code 1923, c. 150, §32(17).]

Sec. 18. Employment of Infected Person.—It shall be unlawful for any person having a venereal disease in an infectious stage to be engaged as a barber in any barber shop in the State, or to be engaged in any capacity in any bakery in the State, or to be employed at any hotel, restaurant, eating house, lunch counter, or other public place, as a cook, or cook's helper, or as a waiter, or in any other capacity whatever where he may come in contact with food about to be served; and it shall be the duty of every physician or other person reporting a case of venereal disease hereunder required, to state in said report whether or not said person so reported is so engaged, and if so, to give the place where such party is so employed; and it shall be the duty of the local health officer, upon receipt of a report showing a person is so engaged, at once to notify the party to discontinue such employment; and if said party so notified fails or refuses to discontinue such employment within twenty-four hours after notice, then the party or parties employing said infected person shall be notified of the fact, and if such employer fails or refuses to

take steps to have such infected person discontinue work within twenty-four hours after receiving notice from the health officer, he shall be guilty of a misdemeanor, and every twenty-four hours thereafter that such infected party continues in the employment of said employer shall be a separate offense upon the part of said employer. In the meantime said health officer may, if the infected party is not under treatment, have the infected person arrested, detained and quarantined, or otherwise dealt with as may seem best to said health officer. [1921, c. 138, §8; Code 1923, c. 150, §32(18).]

Sec. 19. Voluntary Submission to Examination and Treatment.—Any resident of the State may at any time report to any municipal or county health officer having jurisdiction of the case, and voluntarily submit himself to all tests and examination as are necessary to ascertain whether in fact the person submitting himself for examination is infected with a venereal disease; and said health officer to whom any party has applied as above for tests and examination shall provide for making all such tests and examinations as are necessary to ascertain whether in fact said party so applying be so infected with a venereal disease. If such tests and examinations show said party so applying to be so infected, then said party shall elect whether he will take treatment of a private physician, or whether he will take treatment to be provided by the health officer through a clinic or otherwise, and if he elects to take treatment through the local health officer's arrangement, he may be required to pay for such treatment at a charge which shall in no case exceed the sum of five dollars for each dose of "neo" or arsphenamine administered for syphilis, and at a nominal cost for other medicines used; but if the patient is unable to pay anything, he shall be treated free of charge under the direction of the local health officer, at a clinic or otherwise. All proper charges for such examination and treatment as may be necessary hereunder shall be a proper charge against the municipality or county, as the case may be, whether said party so taking treatment lived in or out of a municipal corporation. And whether said person proposing to take treatment as provided hereunder elect to take from a private physician or elect to take treatment under the direction of the local health officer, he shall first sign the agreement required to be signed by persons about to be released from detention or quarantine, and shall observe all its provisions, and so long as such person so signing shall so observe these provisions he need not be detained or quarantined pending treatment, except that no person who is known as a prostitute, or as a person associating with such, or as a person who resides in any house having the reputation of being a house of prostitution, or who frequents the same, shall be allowed at liberty if infected with a venereal disease in an infectious stage, even though he does voluntarily submit for examination and treatment and does take treatment under the provisions of this section.

All money collected under this section shall be paid into a clinic fund, if one is provided, and if not then into the county or city treasury, as

the case may be; and the local health officer having jurisdiction shall collect and account for such funds collected hereunder. [1921, c. 138, §19; Code 1923, c. 150, §32(19).]

Sec. 20. Communication of Disease; Certificate.—It shall be unlawful for any person suffering with an infectious venereal disease to perform any act which exposes another person to infection with said disease, or knowingly to infect or expose another person to infection with such disease; and no physician, health officer or other person shall give any certificate showing a person to be free from a venereal disease, but such certificate shall simply state the results of tests and examinations that may have been made, and what tests were made to arrive at the results stated. [1921, c. 138, §20; Code 1923, c. 150, §32(20).]

Sec. 21. Quarantine.—In establishing quarantine for a venereal disease under the provisions of this article, said health officer establishing said quarantine may confine any person infected, or reasonably suspected of having such venereal disease, or any other person liable to spread such disease, to the house or premises in which he lives, or he may require any such person to be quarantined in any other place, hospital or institution in his jurisdiction that may have been provided. And if no such place has been provided, then such person shall be confined in the county or city jail under a quarantine order, and such jails shall always be available for such purposes. But if such person is to be quarantined in his home, then said health officer shall designate the area, room, or rooms that such person is to occupy while so confined, and no one except the attending physician or his immediate attendants shall enter or leave such room or rooms so designated without permission of said health officer, and no one except the local health officer shall terminate said quarantine, and this shall not be done until the diseased person has become non-infectious as determined by thorough clinical tests, or permission has been given by the state public health council or by the director of the bureau of venereal diseases for the State. If, to make any quarantine effective as provided herein, it becomes necessary, the local health officers may summon a sufficient guard for the enforcement of his orders in the premises. And every person who fails or refuses to obey or comply with any order made by said health officer hereunder, or under any other section concerning quarantine, and every person summoned as a guard who shall, without a lawful excuse therefor, fail or refuse to obey the orders and directions of the health officer in enforcement of said quarantine, shall be guilty of a misdemeanor, and shall be punished as hereinafter provided. [1921, c. 138, §21; Code 1923, c. 150, §32(21).]

Sec. 22. Physicians to Furnish Statement of Qualifications and Facilities for Treatment of Venereal Diseases.—It shall be the duty of every physician or other person in the State who proposes to treat or does treat venereal diseases herein, to file with the director of the bureau of venereal diseases of the State, upon a blank to be furnished by said director, a

statement showing something of his preparation, experience and facilities in and for the treatment of such diseases; and if he fail or refuse to make such statement, or if he treat a patient for any of said diseases without first having made such statement, he shall be guilty of a misdemeanor, and shall be punished as hereinafter provided. [1921, c. 138, §22; Code 1923, c. 150, §32(22).]

Sec. 23. Cost and Expenses of Enforcement; Joint Detention Places.—All costs and expenses necessary to reasonably carry out the provisions of this article, touching the care, custody, detention, and treatment of persons coming within the purview of its provisions, shall be a general charge against the municipalities or counties, as the case may be, unless special arrangements have been made to defray such expenses. Where conditions and locations are such that more economical results may be secured, one or more municipalities, or counties and municipalities, may join together and establish one or more places for treatment and detention, as may be arranged by the several parties concerned, and to be supported upon a basis to be determined between them, and when this agreement has been made a matter of record by each party thereto, funds may be levied and expended by the several parties in pursuance of such agreement. [1921, c. 138, §24; Code 1923, c. 150, §32(24).]

Sec. 24. Offenses by Druggists.—No druggist or other person, not a licensed physician under the laws of the State, shall prescribe, recommend, or sell to any person any drugs, medicines or other substances to be used for the cure or alleviation of syphilis, gonorrhea or chancroid, no matter whether said drugs, medicines or substances are patented or proprietary, or otherwise, or compound or mix any drugs, medicines or other compounds for any of said purposes aforesaid, except upon a written formula or order written for the person for whom the drugs or medicines are compounded and signed by a physician licensed to practice under the laws of the State. All drugs, medicines or substances that are commonly known to the medical profession as being commonly used for such purpose as aforesaid for the cure or alleviation of said disease, whether the name is on the bottles or labels or not, shall be construed as coming within the prohibition above; and all drug stores shall be at all times open to the inspection of any local health officer, or to any party designated by the director of the bureau of venereal diseases of the State, to see whether the provisions of this section are being carried out by said druggists or stores. A sale by a clerk shall also be considered as a sale by the owner or proprietor, and both may be prosecuted hereunder for a misdemeanor. [1921, c. 138, §23; Code 1923, c. 150, §32(23).]

Sec. 25. Venereal Disease Advertisement; Penalty; Exceptions.—Whosoever publishes, delivers or distributes or causes to be published, delivered or distributed in any manner whatsoever, in this State, any advertisement concerning a venereal disease, lost manhood, lost vitality, im-

potency, sexual weakness, seminal emissions, varicocele, self-abuse or excessive sexual indulgence, and calling attention to a medicine, article or preparation that may be used therefor, or to a person or person from whom, or an office or place at which, information, treatment or advice relating to such disease, infirmity, habit or condition may be obtained, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than three hundred dollars, or imprisonment in the county jail not to exceed six months, or both, in the discretion of the court.

Nothing in this section shall be construed as to prevent legitimate and legal public notices, placards, etc., issued under the direction of the state department of health or as to prevent sending out literature by either the state department of health or the United States public health service. [1919, c. 73, §§1, 2, 3; Code 1923, c. 150, §13.]

Sec. 26. Offenses Generally; Penalties; Jurisdiction of Justices; Complaints.—Any person violating any provision of this article, where no other punishment is provided, shall be punished by a fine of not less than ten nor more than one hundred dollars, and may in addition thereto, at the discretion of the judge or justice trying the case, be imprisoned in jail for a period of not to exceed thirty days.

Justices of the peace shall have jurisdiction to try and determine all offenses arising under any provision of this article. Any citizen of the State may make complaint before a justice of any offense hereunder, and all proceedings shall be in the name of the State, and security for costs shall not be required, nor shall costs be adjudged against complainant unless it appears that no reasonable grounds for making complaint existed, and only then when it is made to appear that complainant acted in bad faith. [1921, c. 138, §25; Code 1923, c. 150, §32(25).]

ARTICLE 5. VITAL STATISTICS

Sec.

Section 1. Supervision by State Department of Health. — The State department of health shall have charge of the registration of births, deaths and marriages; shall prepare the necessary instructions, forms and blanks for obtaining and preserving the state records; and shall procure the faithful registration of the same in each primary registration district, as constituted in section three of this article, and in the central division of vital statistics at the capitol of the State. The said department shall be charged with the uniform and thorough enforcement of the provisions of this article throughout the State. [1887, c. 64, §23; 1921, c. 137, §1; Code 1923, c. 150, §23.]

Sec. 2. Division of Vital Statistics; Supervision by State Commissioner of Health; State Registrar of Vital Statistics; Appointment.— The state commissioner of health shall have general supervision over the division of vital statistics, which shall be under the immediate direction of the state registrar of vital statistics, who shall be appointed by the state commissioner of health, with the advice of the public health council, and who shall be a medical practitioner of not less than five years' practice in his profession and a competent vital statistician. The state registrar of vital statistics shall hold office for four years and until his successor has been appointed and has qualified, unless such office shall sooner become vacant by death, disqualification, operation of law, or other causes. Any vacancy occurring in such office shall be filled for the unexpired term by the state commissioner of health. At least ten days before the expiration of the term of office of the state registrar of vital statistics, his successor shall be appointed by the state commissioner of health. The state commissioner of health shall provide for such clerical and other assistants in the division of vital statistics as may be necessary for the purposes of this article. The custodian of the capitol shall provide for the division of vital statistics suitable offices in the state capitol at Charleston, which shall be properly equipped with fireproof vault and filing cases for the permanent and safe preservation of all official records made under and returned under this article. [1921, c. 137, §2; Code 1923, c. 150, §24.]

Sec. 3. Registration Districts. — For the purposes of this article the State shall be divided into registration districts as follows: Each city, each incorporated town, and each magisterial district shall constitute a primary registration district for births and deaths, and each county shall constitute a primary registration district for marriages: *Provided,* That the state department of health may combine two or more registration districts for births and deaths, or divide such districts, when necessary to facilitate registration. [1921, c. 137, §3; Code 1923, c. 150, §25.]

Sec. 4. Local Registrars; Deputies; Subregistrars. — The state registrar shall appoint a local registrar of vital statistics for the registration of births and deaths in each registration district in the State. The term of office of each local registrar so appointed shall be four years and until his successor has been appointed and has qualified, unless such office shall sooner become vacant by death, disqualification, operation of law, or other causes: *Provided,* That in cities where health officers or other officials are, in the judgment of the state registrar, conducting effective registration of births and deaths under local ordinances, such officials may be appointed as registrars in and for such cities, and shall be subject to the rules and regulations of the state registrar, and to all of the provisions of this article. Any vacancy occurring in the office of local registrar of vital statistics for births and deaths shall be filled for the unexpired term by the state registrar. At least ten days before the expiration of the term of office of any such local registrar, his successor shall be appointed by the state registrar. For the registration of marriages the county clerk of each county shall act as local registrar.

Any local registrar appointed for the registration of births and deaths, who, in the judgment of the state registrar of vital statistics, fails or neglects to discharge efficiently the duties of his office as set forth in this article, or to make prompt and complete returns of births and deaths as required thereby, shall be forthwith removed by the state registrar, and such other penalties may be imposed as are provided under section twenty-three of this article.

Each local registrar for the registration of births and deaths shall, immediately upon his acceptance of appointment as such, appoint a deputy, whose duty it shall be to act in his stead in case of his absence or disability, and who may be removed by him; and such deputy shall in writing accept such appointment, and be subject to all rules and regulations governing local registrars. And when it appears necessary for the convenience of the people in any district, the local registrar is hereby authorized, with the approval of the state registrar, to appoint one or more suitable persons to act as subregistrars, who shall be authorized to receive certificates and to issue burial or removal permits in and for such portions of the district as may be designated; and each subregistrar shall note, on each certificate, over his signature, the date of filing, and shall forward all certificates to the local registrar of the district within ten days, and in all cases before the third day of the following month. Each subregistrar shall be subject to the supervision and control of the state registrar, and may be by him removed for neglect or failure to perform his duty in accordance with the provisions of this article or the rules and regulations of the state registrar, and shall be subject to the same penalties for neglect of duty as the local registrar. [1921, c. 137, §4; Code 1923, c. 150, §26.]

Sec. 5. Burial or Removal Permit.—The body of any person whose death occurs in this State, or who shall be found dead therein, shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, or be temporarily held pending further disposition more than seventy-two hours after death, unless a permit for burial, removal, or other disposition thereof shall have been properly issued by the local registrar of the registration district in which the death occurred or the body was found. And no such permit shall be issued by any registrar until, wherever practicable, a complete and satisfactory certificate of death has been filed with him as hereinafter provided: *Provided,* That when a dead body is transported from outside the State into a registration district in West Virginia for burial, or other disposition, the transit or removal permit, issued in accordance with the law and health regulations of the place where the death occurred, shall be accepted by the local registrar of the district into which the body has been transported for burial or other disposition, as a basis upon which he may issue a local permit; he shall note upon the face of such permit the fact that it was a body shipped in for interment, or other disposition, and give the actual place of death; and no local registrar shall receive any fee for the issuance of such permits under this article other than the compensation provided in section eighteen of this article. [1921, c. 137, §5; Code 1923, c. 150, §27.]

Sec. 6. Registration of Stillbirth; Certificates. — A stillborn child shall be registered as a birth and also as a death, and separate certificates of both the birth and the death shall be filed with the local registrar, in the usual form and manner, the certificate of birth to contain in place of the name of the child, the word "stillbirth": *Provided,* That a certificate of birth and a certificate of death shall not be required for a child that has not advanced to the fifth month of uterogestation or to a total length of ten inches. The medical certificate of the cause of death shall be signed by the attending physician, if any, and shall state the cause of death as "stillborn", with the cause of the stillbirth, if known, whether a premature birth, and, if born prematurely, the period of uterogestation, in months, if known; and a burial or removal permit of the prescribed form shall be required. Stillbirths occurring without attendance of a physician shall be treated as deaths without medical attendance, as provided for in section eight of this article. [1921, c. 137, §6; Code 1923, c. 150, §28.]

Sec. 7. Contents of Death Certificate. — The certificate of death shall contain the following items, which are hereby declared necessary for the legal, social and sanitary purpose subserved by registration records:

(a) Place of death, including state, county, district, village or city. If in a city, the ward, street and house number; if in a hospital or other institution, the name of the same to be given instead of the street and house number; if in an industrial camp, the name of the camp to be given;

(b) Full name of decedent. If an unnamed child, the surname preceded by "unnamed";

(c) Sex;

(d) Color or race—as white, black, mulatto (or other negro descent), Indian, Chinese, Japanese or other;

(e) Conjugal condition—as single, married, widowed or divorced;

(f) Date of birth, including the year, month and day;

(g) Age, in years, months and days. If less than one day, the hours or minutes;

(h) Occupation. The occupation to be reported of any person, male or female, who had any remunerative employment, with the statement of:

(1) Trade, profession or particular kind of work;

(2) General nature of industry, business or establishment in which employed (or employer);

(i) Birthplace; at least state or foreign country, if known;

(j) Name of father: *Provided,* That if the child or person is illegitimate, the name or residence of or other identifying details relating to the father or reputed father shall not be entered without his consent: *Provided further,* That whenever a judgment has been entered determining the paternity of an illegitimate child, the clerk of the court where entered shall report the facts to the state registrar who shall record the name of the father and sufficient data to identify the judgment, in connection

with the record of the death of the child appearing in his office. A report by the clerk of any court subsequently vacating such judgment shall be made and recorded in like manner;

(k) Birthplace of father; at least state or foreign country, if known;

(l) Maiden name of mother;

(m) Birthplace of mother; at least state or foreign country, if known;

(n) Signature and address of informant;

(o) Official signature of registrar, with the date when certificate was filed, and registered number;

(p) Date of death, year, month and day;

(q) Certification as to medical attendance on decedent, fact and time of death, time last seen alive, and the cause of death, with the contributory (secondary) cause of complication, if any, and duration of each, and whether attributed to dangerous or insanitary conditions of employment; signature and address of physician or official making the medical certificate;

(r) Length of residence (for inmates of hospitals and other institutions, transients or recent residents) at place of death and in the State, together with the place where the disease was contracted, if not at the place of death, and former or usual residence;

(s) Place of burial or removal; date of burial;

(t) Signature and address of undertaker or person acting as such.

The personal and statistical particulars [items (a) to (m)] shall be authenticated by the signature of the informant, who may be any competent person acquainted with the facts. The medical certificate shall be made and signed by the physician, if any, last in attendance on the deceased, who shall specify the time in attendance, the time he last saw the deceased alive and the hour of the day at which the death occurred. And he shall further state the cause of death, so as to show the course of disease or sequence of causes resulting in the death, giving first the name of the disease causing death (primary cause) and the contributory (secondary) cause, if any, and the duration of each. Indefinite and unsatisfactory terms, denoting only symptoms of disease or conditions resulting from disease, will not be held sufficient for the issuance of a burial or removal permit; and any certificate containing only such terms, as defined by the state registrar, shall be returned to the physician or person making the medical certificate for correction and more definite statement. Causes of death which may be the result of either disease or violence shall be carefully defined; and, if from violence, the means of injury shall be stated, and whether (probably) accidental, suicidal, or homicidal. And for deaths in hospitals, institutions, or of nonresidents, the physician shall supply the information required under this head [item (r)], if he is able to do so, and may state where, in his opinion, the disease was contracted. The statement of facts relating to the disposition of the body shall be signed by the undertaker or person acting as such. [1921, c. 137, §7; Code 1923, c. 150, §28a.]

Sec. 8. Death Without Medical Attendance; Duties of Undertaker; Local Health Officer; Coroner; Certificate.—In case of any death occurring without medical attendance, it shall be the duty of the undertaker, or person acting as undertaker, to notify the local registrar of such death, and when so notified the registrar shall, prior to the issuance of the permit, inform the local health officer and refer the case to him for immediate investigation and certification: *Provided,* That when the local health officer is not a physician, or when there is no such official, and in such cases only, the registrar is authorized to make the certificate and return from the statement of relatives or other persons having adequate knowledge of the facts: *Provided further,* That if the registrar has reason to believe that the death may have been due to unlawful act or neglect, he shall then refer the case to the coroner or other proper officer for his investigation and certification. And the coroner or other proper officer whose duty it is to hold an inquest on the body of any deceased person, and to make the certificate of death required for a burial permit, shall state in his certificate the name of the disease causing death, or, if from external causes, (a) the means of death; and (b) whether (probably) accidental, suicidal, or homicidal; and shall, in any case, furnish such information as may be required by the state registrar in order properly to classify the death. [1921, c. 137, §8; Code 1923, c. 150, §28b.]

Sec. 9. Duties of Undertaker; Provisional Death Certificate; Duties of Casket Dealer.—The undertaker, or person acting as undertaker, shall file the certificate of death with the local registrar of the district in which the death occurred and obtain a burial or removal permit prior to any disposition of the body. He shall obtain the required personal and statistical particulars from the person best qualified to supply them, over the signature and address of his informant. He shall then present the certificate to the attending physician, if any, or to the health officer or coroner, as directed by the local registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record, as specified in sections seven and eight. And he shall then state the facts required relative to the date and place of burial or removal, over his signature and with his address, and present the completed certificate to the local registrar in order to obtain a permit for burial, removal or other disposition of the body: *Provided,* That in an emergency where it is necessary to ship a body, or where for other good and sufficient reasons an undertaker, or person acting as such, is unable to comply with the requirements of this section, he may file a provisional death certificate with the local registrar and secure from that official a burial, removal or transit permit; *Provided further,* That within a period of ten days the undertaker, or person acting as such, shall exchange, for the provisional death certificate previously filed, a death certificate completely and satisfactorily made out, as contemplated in this section. The undertaker shall deliver the burial permit to the person in charge of the place of burial, before interring or otherwise disposing of the body; or shall attach the removal permit to the box containing the corpse, when shipped

by any transportation company; said permit to accompany the corpse to its destination, where, if within the State of West Virginia, it shall be delivered to the person in charge of the place of burial.

Every person, firm or corporation selling a casket shall keep a record showing the name of the purchaser, purchaser's post-office address, name of deceased, date of death, and place of death of deceased, which record shall be open to inspection of the state registrar at all times. On the first day of each month the person, firm or corporation selling caskets shall report to the state registrar each sale for the preceding month, on a blank provided for that purpose: *Provided, however,* That no person, firm or corporation selling caskets to dealers or undertakers only shall be required to keep such record, nor shall such report be required from undertakers when they have direct charge of the disposition of a dead body.

Every person, firm or corporation selling a casket at retail, and not having charge of the disposition of the body, shall inclose within the casket a notice furnished by the state registrar calling attention to the requirements of the law, a blank certificate of death, and the rules and regulations of the state department of health concerning the burial or other disposition of a dead body. [1921, c. 137, §9; Code 1923, c. 150, §28c.]

Sec. 10. Interment Within State; Burial or Removal Permit. — If the interment, or other disposition of the body, is to be made within the State, the wording of the burial or removal permit may be limited to a statement by the registrar, over his signature, that a satisfactory certificate of death having been filed with him, as required by law, permission is granted to inter, remove or otherwise dispose of the body, stating the name, age, sex, cause of death, and other necessary details upon the form prescribed by the state registrar. [1921, c. 137, §10; Code 1923, c. 150, §28d.]

Sec. 11. No Burial Without Permit; Duty of Custodian and Undertaker.—No person in charge of any premises on which interments or other disposition of bodies are made shall inter or permit the interment or other disposition of any body unless it is accompanied by a burial, removal or transit permit, as herein provided. And such person shall indorse upon the permit the date of interment or other disposition over his signature, and shall return all permits so indorsed to the local registrar of his district within ten days from the date of interment or other disposition, or within the time fixed by the local board of health; he shall keep a record of all bodies interred or otherwise disposed of on the premises under his charge, in each case stating the name of each deceased person, place of death, date of burial or disposal, and name and address of the undertaker; which record shall at all times be open to official inspection; *Provided,* That the undertaker or person acting as such, when burying a body in a cemetery or burial ground having no person in charge, shall sign the burial or removal permit, giving the date of burial, and shall write across the face of the permit the words, "No person in charge," and file the burial or removal permit within ten days with the registrar of the district in which the cemetery is located. [1921, c. 137, §11; Code 1923, c. 150, §28e.]

Sec. 12. Registration of Births Compulsory. — The birth of each and every child born in this State shall be registered as hereinafter provided. [1921, c. 137, §12; Code 1923, c. 150, §28f.]

Sec. 13. Making and Filing of Birth Certificate. — Within ten days after the date of each birth, there shall be filed with the local registrar of the district in which the birth occurred a certificate of such birth which certificate shall be upon the form adopted by the state department of health with a view to procuring a full and accurate report with respect to each item of information enumerated in section fourteen of this article.

In each case where a physician, midwife, or person acting as midwife, was in attendance upon the birth, it shall be the duty of such physician, midwife, or person acting as midwife, to file in accordance herewith the certificate herein contemplated.

In each case where there was no physician, midwife, or person acting as midwife, in attendance upon the birth, it shall be the duty of the father or mother of the child, or the manager or superintendent of the public or private institution where the birth occurred, each in the order named, within ten days after the date of such birth, to report to the local registrar the fact of such birth. In such case and in case the physician, midwife, or person acting as midwife, in attendance upon the birth, is unable by diligent inquiry to obtain any item or items of information contemplated in section fourteen of this acticle, it shall be the duty of the local registrar to secure from the person so reporting, or from any other person having the required knowledge, such information as will enable him to prepare the certificate of birth herein contemplated, and it shall be the duty of the person reporting the birth, or who may be interrogated in relation thereto, to answer correctly and to the best of his knowledge all questions put to him by the local registrar which may be calculated to elicit any information needed to make a complete record of birth as contemplated by said section fourteen, and it shall be the duty of the informant as to any statement made in accordance herewith to verify such statement by his signature, when requested so to do by the local registrar. [1921, c. 137, §13; Code 1923, c. 150, §28g.]

Sec. 14. Contents of Birth Certificate. — The certificate of birth shall contain the following items which are hereby declared necessary for the legal, social and sanitary purposes subserved by registration records:

(a) Place of birth, including state, county, district, village or city. If in a city the ward, street, and house number; if in a hospital or other institution, the name of the same to be given instead of the street and house number;

(b) Full name of child. If the child dies without a name, before the certificate is filed, enter the words "Died unnamed." If the living child has not yet been named at the date of the filing certificate of birth, the space for "full name of child" is to be left blank, to be filled out subsequently by a supplemental report, as hereinafter provided;

(c) Sex of child;

(d) Whether a twin, triplet, or other plural birth. A separate certificate shall be required for each child in case of plural births;

(e) For plural births, number of each child in order of birth;

(f) Whether legitimate or illegitimate;

(g) Date of birth, including the year, month and day;

(h) Full name of father: *Provided,* That if the child is illegitimate, the name or residence of, or other identifying details relating to, the putative father shall not be entered without his consent: *Provided further,* That whenever a judgment has been entered determining the paternity of an illegitimate child, the clerk of the court where entered shall report the facts to the state registrar who shall record the name of the father, and sufficient data to identify the judgment, in connection with the record of the birth of the child appearing in his office. A report by the clerk of any court subsequently vacating such judgment shall be made and recorded in like manner;

(i) Residence of father;

(j) Color or race of father;

(k) Age of father at last birthday, in years;

(l) Birthplace of father; at least state or foreign country, if known;

(m) Occupation of father. The occupation to be reported if engaged in any remunerative employment, with the statement of:

(1) Trade, profession, or particular kind of work;

(2) General nature of industry, business or establishment in which employed (or employer);

(n) Maiden name of mother;

(o) Residence of mother;

(p) Color or race of mother;

(q) Age of mother at last birthday, in years;

(r) Birthplace of mother; at least state or foreign country; if known;

(s) Occupation of mother. The occupation to be reported if engaged in any remunerative employment, with the statement of:

(1) Trade, profession, or particular kind of work;

(2) General nature of industry, business or establishment in which employed (or employer);

(t) Whether or not prophylactic was used in each eye of the child. The specific inquiry shall be, "Did you instill in each eye of the infant a one per cent solution of nitrate of silver immediately after birth?";

(u) Number of children born to this mother, including present birth;

(v) Number of children of this mother living;

(w) The certification of attending physician or midwife as to attendance at birth, including statement of year, month, day [as given in item (g)] and the hour of birth, and whether the child was born alive or stillborn. This certification shall be signed by the attending physician or midwife

with the date of signature and address; if there is no physician or midwife in attendance, then by the father or mother of the child, or manager or superintendent of the public or private institution where the birth occurred, or other competent person, whose duty it shall be to notify the local registrar of such birth, as required by section thirteen of this article;

(x) Exact date of filing in office of local registrar, attested by his official signature, and registered number of birth, as hereinafter provided. [1919, c. 125, §6(8); 1921, c. 137, §14; Code 1923, c. 150, §§28h, 31(6) (h).]

Sec. 15.—Supplemental Birth Report. — When any certificate of birth of a living child is presented without the statement of the given name, the local registrar shall make out and deliver to the parents of the child a special blank for the supplemental report of the given name of the child, which shall be filled out as directed, and returned to the local registrar as soon as the child shall have been named. [1921, c. 137, §15; Code 1923, c. 150, §28i.]

Sec. 16. Records of Hospitals and Other Institutions.—All superintendents or managers, or other persons in charge of hospitals, almshouses, lying-in or other institutions, public or private, to which persons resort for treatment of diseases, confinement, or are committed by process of law, shall make a record of all the personal and statistical particulars relative to inmates in their institutions, at the time of their admission, which are required in the forms of the certificates provided for by this article, as directed by the state registrar. And in the case of persons admitted or committed for treatment of disease, the physician in charge shall specify for entry in the record the nature of the disease, and where, in his opinion, it was contracted. The personal particulars and information required by this section shall be obtained from the individual himself, if it is practicable to do so; and when they cannot be so obtained, they shall be obtained in as complete a manner as possible from relatives, friends, or other persons acquainted with the facts. [1921, c. 137, §16; Code 1923, c. 150, §28j.]

Sec. 17. Local Registrars; Duties.—Each local registrar shall supply blank forms of certificates to such persons as require them. Each local registrar shall carefully examine each certificate of birth or death when presented for record, in order to ascertain whether or not it has been made in accordance with the provisions of this article and the instructions of the state registrar; and if any certificate of death is incomplete or unsatisfactory, it shall be his duty to call attention to the defects in the return, and to withhold the burial or removal permit until such defects are corrected. All certificates, either of birth or of death, shall be written legibly, in durable black ink or with a typewriter, and no certificate shall be held to be complete and correct that does not supply all of the items of information called for therein, or satisfactorily account for their omission. If the certificate of death is properly executed and complete, he shall then issue a burial or removal permit to the undertaker; *Provided,*

That in case the death occurred from some disease which is held by the state public health council to be infectious or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be issued by the registrar, except under such conditions as may be prescribed by the state commissioner of health. If a certificate of birth is incomplete, the local registrar shall immediately notify the informant, and require him to supply the missing items of information, if they can be obtained. He shall number, consecutively, the certificates of birth and death, in two separate series, beginning with number one (1) for the first birth and the first death in each calendar year, and sign his name as registrar in attest of the date of filing in his office. He shall also make a complete and accurate copy of each birth and each death certificate registered by him, and shall, on or before the tenth day of each month, transmit to the state registrar all original certificates registered by him for the preceding month and the copies of such certificate made as herein provided. If no births or no deaths occurred in any month, he shall, on the tenth day of the following month, report that fact to the state registrar, on a card provided for such purpose. [1921, c. 137, §18; Code 1923, c. 150, §281.]

Sec. 18. Compensation of Local Registrars. — Each local registrar shall be paid the sum of twenty-five cents for each birth certificate and each death certificate properly and completely made out and registered with him, and correctly recorded and promptly returned by him to the state registrar, as required by this article. And in case no births or no deaths were registered during any month, the local registrar shall be entitled to be paid the sum of twenty-five cents for each report to that effect, but only if such reports be made promptly as required by this article. The state registrar shall annually certify to the county courts of the several counties the number of births and deaths properly registered, with the names of the local registrars and the amounts due each at the rates fixed herein. All amounts payable to a local registrar under the provisions of this section shall be paid by the treasurer of the county in which the registration district is located, upon the order of the county court of such county issued upon such certification by the state registrar. [1921, c. 137; §19; Code 1923, c. 150, §28m.]

Sec. 19. State Registrar; Duties; State and County Registers of Births and Deaths; Classification of Diseases; Private Records Filed With State Registrar; Transcript.—The state Registrar shall prepare, print and supply to all registrars all blanks and forms necessary for registering, recording and preserving the state records, and shall prepare and issue such detailed instructions as may be required to procure the uniform observance of its provisions and the maintenance of a perfect system of registration; and no other blanks shall be used than those supplied by the state registrar. He shall carefully examine the certificates received monthly from the local registrars, and, if any such are incomplete or unsatisfactory, he shall require such further information to be supplied as may be necessary to make the record complete and satisfactory. And all physicians,

midwives, informants, or undertakers, and other persons having knowledge of the facts, are hereby required to supply, upon a form provided by the state registrar or upon the original certificate, such information as they may possess regarding any birth or death, upon demand of the state registrar, in person, by mail, or through the local registrar; *Provided,* That no certificate of birth or death, after its acceptance for registration by the local registrar, and no other record made in pursuance of this article, shall be altered or changed in any respect otherwise than by amendments properly dated, signed and witnessed. The state registrar shall further arrange, bind and permanently preserve the certificates in a systematic manner, and shall compile therefrom a record of such births and deaths and shall enter the same in a systematic and orderly way in a well-bound register of births and a well-bound register of deaths, respectively, for the State, and shall prepare and maintain a comprehensive and continuous index of all births and deaths registered. The index shall be arranged alphabetically, in the case of deaths, by the names of decedents, and in the case of births, by the names of the children, where stated, as well as of the fathers and mothers, subject, however, to the provisions of sections seven and fourteen of this article. He shall inform all registrars what diseases are to be considered infectious or communicable and dangerous to the public health, as decided by the state public health council, in order that when deaths occur from such diseases proper precautions may be taken to prevent their spread.

In order that each county may have a complete record of the births and deaths occurring in said county, the state registrar shall transmit each month, to the several county clerks, the copies of the certificates of all births and deaths occurring in their respective counties furnished by the local registrars, from which copies the clerk shall compile a record of such births and deaths and shall enter the same in a systematic and orderly way in a well-bound register of births and a well-bound register of deaths, respectively, for that county, which said registers shall be public records: *Provided,* That such copies and registers shall not state that any child was either legitimate or illegitimate. The form of said registers of births and deaths shall be prescribed by the state registrar of vital statistics.

If any cemetery company or association, or any church or historical society or association, or any other company, society, or association, or any individual, is in possession of any record of births or deaths which may be of value in establishing the genealogy of any resident of this State, such company, society, association or individual may file such record, or a duly authenticated transcript thereof, with the state registrar, and it shall be the duty of the state registrar to preserve such record or transcript and to make a record and index thereof in such form as to facilitate the finding of any information contained therein. Such record and index shall be open to inspection by the public, subject to such reasonable conditions as the state registrar may prescribe. If any person desires a transcript of any such record, the state registrar shall furnish

the same upon application, together with a certificate that it is a true copy of such record, as filed in his office, and for his services in so furnishing such transcript and certificate he shall be entitled to a fee of fifty cents per hour or fraction of an hour necessarily consumed in making such transcript, and to a fee of twenty-five cents for the certificate, which fees shall be paid by the applicant. [1921, c. 137, §§1, 17; Code 1923, c. 150, §§23, 28k.]

Sec. 20. Records of Legitimacy Shown Only on Order of Court.—Except when ordered by a court of competent jurisdiction in a case where such information is necessary for the determination of personal or property rights, and then only for such purpose, no member of the state department of health, nor any state or local registrar, nor any person connected with the office of either, shall disclose the fact that any record in this article provided for shows that any child was either legitimate or illegitimate.

The court shall have jurisdiction, upon petition against and notice to the state registrar, under such rules and regulations as the court may prescribe, to issue such writs or orders permitting or requiring the inspection of such records and the making and delivery of certified copies thereof as to it may seem just and proper.

Section 21. Certified Copies From Birth and Death Records; Fees.—The state registrar shall, upon request, supply to any applicant a certified copy of the record of any birth or death registered under the provisions of this article: *Provided, however,* That when a request is made for a birth certificate of any person who has been legally adopted by any other person and there is filed with such request a certified copy of the decree of the court in such adoption proceedings the state registrar shall, upon special request therefor, issue in lieu of a certified copy of the original record a special birth certificate showing only (a) the name of the proposed adopted person as changed by the decree of adoption, if changed; (b) the date and place of birth; (c) the names of the adopting parent or parents; and (d) the permanent file number of the original birth certificate. Such special certificate shall be accepted by all school authorities as evidence of the child's age for all purposes connected with employment or school attendance. For the making and certification of each certified copy of the record of any birth, death or of any special birth certificate, the state registrar shall be entitled to a fee of fifty cents to be paid by the applicant. Such copy shall not state that any child was either legitimate or illegitimate. Any such copy of the record of a birth or death, or such special birth certificate, when properly certified by the state registrar, shall be prima facie evidence, in all courts and places, of the facts therein stated. For any search of the files and records when no certified copy is made, the state registrar shall be entitled to a fee of fifty cents for each hour or fractional part of an hour of time of search, said fee to be paid by the applicant. The state registrar shall keep a true and correct account of all fees by him received

under the provisions of this article and turn the same over to the state treasurer: *Provided,* That the state registrar shall, upon the request of any parent or guardian, supply without fee a certificate limited to a statement as to the date of birth, of any child when the same shall be necessary for admission to school, or for the purpose of securing employment: *Provided, further.* That the United States Bureau of Census may obtain, without expense to the state, transcripts or certified copies of births and deaths without payment of the fees herein prescribed: *And provided further,* That the state registrar may furnish certified copies of birth and death records to the state welfare department, to county welfare departments and to organized charities, free of charge, when such certificates are needed in presenting claims to the federal government, or to the West Virginia Relief Compensation Department, and an accurate record shall be made of all such certificates so furnished. [1921, c. 137, §20; Code 1923, c. 150, §28n; 1933, 2n Ex. Ses., c. 96, 1935, c. 106; 1939, c. 32.]

Sec. 22. Registration of Marriages.—All marriages taking place within the State shall be registered with the state registrar of vital statistics, at the place where records of births and deaths are filed, in the manner hereinafter provided.

On or before the tenth day of each month the county clerk of each county shall forward to the state registrar of vital statistics a certified abstract of all marriage records made by him during the previous month, in such form as may be prescribed by the state registrar.

The state registrar of vital statistics shall preserve and index all records thus received and shall, when applied to, issue a certified copy of the same, which shall be prima facie evidence in all courts in the State of the facts stated therein. [1921, c. 137, §21; Code 1923, c. 150, §28o.]

Sec. 23. Offenses Concerning Vital Statistics; Penalties; Jurisdiction of Justices.—Any person who, for himself or as an officer, agent, or employee of any other person, or of any corporation or partnership,

(a) Shall inter, cremate, or otherwise finally dispose of the dead body of a human being, or permit the same to be done, or shall remove said body from the primary registration district in which the death occurred or the body was found, without the authority of a burial or removal permit issued by the local registrar of the district in which the death occurred or in which the body was found; or

(b) Shall refuse or fail to furnish correctly any information in his possession, or shall furnish false information affecting any certificate or record required by this article, or who, in violation of this article, shall disclose any information; or

(c) Shall willfully alter, otherwise than is provided by section nineteen of this article, or shall falsify any certificate of birth or death or any record established by this article; or

(d) Being required by this article to fill out a certificate of birth or death and file the same with the local registrar, or deliver it, upon request, to any person charged with the duty of filing the same, shall fail, neglect, or refuse to perform such duty in the manner required by this article; or

(e) Being a local registrar, deputy registrar or subregistrar, shall fail, neglect, or refuse to perform his duty as required by this article and by the instruction and direction of the state registrar thereunder, shall be deemed guilty of misdemeanor, and, upon conviction thereof, shall be fined not less than one nor more than five dollars.

Justices of the peace shall have concurrent jurisdiction to try and determine all offenses arising under this article. [1921, c. 137, §23; Code 1923, c. 150, §28q.]

Sec. 24. Enforcement of Vital Statistics Act. — Each local registrar is hereby charged with the strict and thorough enforcement of the provisions of this article in his registration district, under the supervision and direction of the state registrar. And he shall make an immediate report to the state registrar of any violation of this law coming to his knowledge, by observation or upon complaint of any person, or otherwise.

The state registrar is hereby charged with the thorough and efficient execution of the provisions of this article in every part of the State, and is hereby granted supervisory power over local registrars, deputy local registrars and subregistrars, to the end that all of its requirements shall be uniformly complied with. The state registrar, either personally or by an accredited representative, shall have authority to investigate cases of irregularity or violation of law, and all registrars shall aid him, upon request, in such investigations. When he shall deem it necessary, he shall report cases of violation of any of the provisions of this article to the prosecuting attorney of the county, with a statement of the facts and circumstances; and when any such case is reported to him by the state registrar, the prosecuting attorney shall forthwith initiate and promptly follow up the necessary court proceedings against the person or corporation responsible for the alleged violation of law. And, upon request of the state registrar, the attorney general shall assist in the enforcement of the provisions of this article. [1921, c. 137, §24; Code 1923, c. 150, §29.]

ARTICLE 6. HOTELS AND RESTAURANTS

Sec.

1. Hotel inspector.
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3. Hotel and restaurant defined; hotels subject to provisions of article.
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18. Disinfection of rooms and beds; penalty.
19. Hallways; fire escapes.
20. Knotted rope or other fire escape in hotel.
21. Fire extinguishers.
22. Liability of hotel or restaurant keeper for loss of property; deposit of valuables.
23. Offenses.
24. Prosecution.

Section 1. Hotel Inspector.—The governor shall appoint a hotel inspector to hold office at the will and pleasure of the governor. He shall, before entering upon the duties of his office, take the oath of office prescribed by the Constitution, and give bond in the penalty of five thousand dollars, which bond, when approved by the governor, shall be filed and recorded in the office of the secretary of state. The hotel inspector shall have had at least five years' experience in conducting a first class American or European hotel, and shall receive a salary of fifteen hundred dollars per annum, and his actual traveling expenses. He shall keep an accurate itemized account of such expenses and shall file the

same quarterly with the secretary of the state public health council, together with an account of all fees collected from applicants for hotel and restaurant inspection certificates and of other moneys coming into his hands by virtue of his office. [1913, c. 8, §1; Code 1923, c. 15N, §1.]

2. **Regulations by Public Health Council; Pure Food.**—The state public health council shall make such rules and regulations, not inconsistent with law, as in their judgment are necessary to carry out the provisions of this article, which rules and regulations shall take effect when approved by the attorney general and the governor. The hotel inspector shall assist in the enforcement of any orders made by the state public health council, and of the laws of the State respecting pure food, so far as they relate to hotels and restaurants. [1913, c. 8, §2; Code 1923, c. 15N, §2.]

Sec. 3. Hotel and Restaurant Defined; Hotels Subject to Provisions of Article.—For the purpose of this article, every building where food and lodging are usually furnished to guests and payment required therefor shall be deemed a hotel, and every place where food without lodging is usually furnished to guests and payment required therefor shall be deemed a restaurant. But the provisions of this article, except those of sections twenty and twenty-two, shall not apply to any hotel wherein there are fewer than ten bed chambers, nor to any hotel known as a "summer hotel" which is not open for guests from November fifteenth to May fifteenth. [1913, c. 8, §§3, 24; Code 1923, c. 15N, §§3, 24.]

Sec. 4. Application for Inspection of Hotel or Restaurant by Person Proposing to Conduct Same; Certificate; Temporary Permit; Fee.—Every person, firm or corporation proposing to conduct a hotel or restaurant shall apply to the hotel inspector for an inspection and certificate thereof, and said inspector shall inspect the premises described in such application as soon thereafter as may be; but if it be impracticable to do so within ten days after receiving such application, said inspector may issue to such applicant a temporary permit which shall be valid until a regular inspection is made. Only one certificate or permit shall be issued where a hotel and restaurant are combined and conducted in the same building and under the same management. Each certificate or permit shall expire on the thirtieth day of June next following its issuance, and no hotel or restaurant shall be maintained and conducted in this State without the certificate of inspection thereof as herein prescribed, which certificate shall be posted in the main public room of such hotel or restaurant, and shall show the date of each inspection and the notations relating thereto by the hotel inspector. No such certificate shall be transferable. The fee for such inspection and certificate or permit shall be, for a hotel, two dollars, and twenty-five cents additional for each bed room in excess of seven; and for a restaurant, two dollars, and twenty-five cents additional for each five chairs or stools, or spaces where persons are fed, in excess of ten, but no fee shall exceed ten

dollars. Such inspector shall, on the first of each month, pay into the state treasury all fees collected for inspections during the preceding month. Every certificate of inspection or permit under this article shall be made and issued in duplicate. [1913, c. 8, §4; Code 1923, c. 15N, §4.]

Sec. 5. Form of Application for Inspection; Payment of Fee.—The applicant for inspection of a hotel or restaurant shall file with the hotel inspector a written application, in form to be prescribed by the state public health council, which shall set forth the name and address of the owner of the building or property to be occupied, and of the agent of any such owner; the name and address of the lessee and manager, if any, of the hotel or restaurant; the location of such hotel or restaurant and a full description of the building or property to be occupied by it, and such other matters as may be required by the state public health council. The fee for inspection shall be paid to the hotel inspector when the application is filed with him. [1913, c. 8, §7; Code 1923, c. 15N, §7.]

Sec. 6. Contents of Certificate and Permit; Posting.—Every such certificate shall show that the hotel or restaurant is equipped and conducted according to law, and shall be kept posted in some conspicuous place in such hotel or restaurant. Every such permit shall show, according to the fact, why it is granted, and that the hotel or restaurant is, according to law, permitted to be kept, and it shall be kept posted in like manner. [1913, c. 8, §5; Code 1923, c. 15N, §5.]

Sec. 7. Certificate or Permit Prerequisite to License.—No license to keep a hotel or restaurant, and no certificate for such license, shall hereafter be authorized or issued unless there be first filed, in the county court to which application therefor is made, a certificate of inspection or permit, granted by the hotel inspector as provided in this article. Every such license shall bear on its face a reference to such certificate of inspection or permit. [1913, c. 8, §8; Code 1923, c. 15N, §6.]

Sec. 8. Annual Inspection of Hotels and Restaurants; Powers and Duties of Hotel Inspector.—The hotel inspector shall inspect, or cause to be inspected, at least once annually, every hotel and restaurant in the State. For that purpose he, or any person designated by him, shall have the right of entry and access at any reasonable time to inspect kitchens where food is prepared, pantry and storage rooms pertaining thereto, dining rooms, lunch counters, and every place where articles pertaining to the serving of the public are kept or prepared. The said inspector shall prohibit the use of any article not in keeping with cleanliness and good sanitary conditions. He shall also have the right to enter any and all parts of a hotel at all reasonable hours to make such inspection, and every person in the management or control thereof shall afford free access to every part of the hotel and render all assistance necessary to enable the inspector to make full, thorough and complete examination thereof, but the privacy of any guest in any room occupied by him shall not be invaded without his consent. [1913, c. 8, §8; Code 1923, c. 15N, §8.]

Sec. 9. Alterations and Changes by Owner; Penalty for Refusal or Failure to Make.—Whenever, upon such inspection, it shall be found that any such hotel or restaurant is not equipped, or being conducted, in the manner and under the conditions required by the provisions of this article, the hotel inspector shall notify the owner, manager or agent in charge of such hotel or restaurant of such changes or alterations as, in the judgment of the hotel inspector, may be necessary to effect a complete compliance with said provisions. Such owner, manager or agent shall thereupon make such alterations or changes as may be necessary to put such buildings and premises in a condition, and conduct it in a manner, that will fully comply with the requirements of this article: *Provided, however,* That due time after receiving such notice shall be allowed for conforming to the requirements thereof, which time shall be specified in tne notice. Should the changes or alterations directed by such notice not be made in the time specified therein, the said inspector shall proceed against the person or persons in default in any court having jurisdiction to enforce the provisions of this article against him or them. Every person, firm or corporation which shall fail or refuse to comply with the provisions of this section shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined five dollars for each and every day such failure or refusal may continue. If such failure or refusal shall continue for thirty days after the time specified in the notice from the hotel inspector for conforming to the requirements thereof, the inspector may proceed in the circuit court of the county wherein such hotel or restaurant is, for an order closing it. After such order is issued, the building or property shall not again be used as a hotel or restaurant until a certificate or permit therefor shall have been issued by the hotel inspector, and any disobedience of such order shall be punished as other contempts of court. Reasonable notice shall be given of the application for such order. [1913, c. 8, §9; Code 1923, c. 15N, §9.]

Sec. 10. Notices by Inspectors.—All notices given by the hotel inspector shall be in writing and shall either be delivered in person or sent by registered mail. [1913, c. 8, §21; Code 1923, c. 15N, §21.]

Sec. 11. Lighting; Plumbing; Ventilation.—Every hotel and restaurant in this State shall be properly lighted by day and by night, shall be properly plumbed and ventilated, and shall be conducted in every department with strict regard for the health, comfort and safety of its guests. Such proper plumbing and draining shall be done and maintained according to approved sanitary principles. Such proper ventilation shall be construed to require at least one door and one window in every sleeping room, which window shall permit easy access to the outside of the building, light well or court. No room shall be used as a sleeping room which does not open to the outside of the building or light wells, air shafts or courts. [1913, c. 8, §10; Code 1923, c. 15N, §10.]

Sec. 12. Water Closets.—In every city, town or village where a system of water works and sewerage is maintained for public use, every hotel therein shall be equipped with suitable water closets for the accommodation of guests, which water closets shall be connected by proper plumbing with such sewer system, and so constructed that they may be flushed with water in such manner as to prevent sewer gas or effluvia arising therefrom. All lavatories, bath tubs, sinks, drains, closets and urinals in such hotels shall be furnished and equipped in similar manner. [1913, c. 8, §11; Code 1923, c. 15N, §11.]

Sec. 13. Privies.—In all cities, towns and villages not having a system of water works and sewerage, every hotel shall have properly constructed privies or vaults to receive the night soil, which privies and vaults shall be kept clean and well screened at all times and free from filth of every kind. The privies shall have separate compartments for each sex, each compartment being properly designated. [1913, c. 8, §12; Code 1923, c. 15N, §12.]

Sec. 14. Wash Rooms; Towels.—All hotels in this State shall be provided with a general wash room convenient and of easy access to guests, and in each bed room and general wash room there shall be furnished for each registered guest clean, individual towels, of cotton or linen, so that no two or more registered guests will be required to use the same towel, unless it has first been washed. Such individual towel shall not be less than twelve inches wide and eighteen inches long after being washed. [1913, c. 8, §15; Code 1923, c. 15N, §15.]

Sec. 15. Beds and Floor Coverings.—Every hotel shall provide each bed, bunk, cot, or other sleeping place for the use of guests with pillow slips and under and top sheets, the under sheets to be of sufficient size to completely cover the mattress and springs, and the top sheet to be of like width and at least ninety-nine inches long and not to be less than ninety inches in length after having been laundered. Such sheets and pillow slips shall be made of white cotton or linen, and all such sheets and pillow slips, after being used by one guest, shall be washed and ironed before being used by another guest, a clean set being furnished each succeeding guest. All bedding, including mattresses, quilts, blankets, pillows, and all carpets and floor covering used in any hotel in this State, shall be thoroughly aired, disinfected and kept clean. [1913, c. 8, §19; Code 1923, c. 15N, §19.]

Sec. 16. Bed Bugs.—In every hotel, any room infected with vermin or bed bugs shall be fumigated, disinfected and renovated until said vermin or bed bugs are extirpated. [1913, c. 8, §20; Code 1923, c. 15N, §20.]

Sec. 17. Employment of Person Having Communicable Disease.—No person, firm or corporation engaged in conducting a hotel or a restaurant shall knowingly have in its employ any person who has an infectious or communicable disease. [1913, c. 8, §17; Code 1923, c. 15N, §17.]

Sec. 18. Disinfection of Rooms and Beds; Penalty.—Every person keeping or conducting a hotel shall see that every room or bed, which has been occupied by any person known to have an infectious or communicable disease at the time of such occupancy, is thoroughly disinfected by methods to be prescribed by the state public health council before such room or bed shall be occupied by any other person. Any person violating the provisions of this section shall be subject to a fine not exceeding three hundred dollars, and to confinement in jail not exceeding six months, or both, at the discretion of the court. [1913, c. 8, §18; Code 1923, c. 15N, §18.]

Sec. 19. Hallways; Fire Escapes.—Whenever it shall be proposed to erect a building three stories or more in height, intended for use as a hotel in this State, it shall be the duty of the owner or proprietor of such hotel to construct the same so that one main hallway on each floor above the ground floor shall run to an opening in the outside wall of the building. Every building used as a hotel shall comply with the provisions of this Code pertaining to fire escapes. All fire escapes shall be indicated by a red light and a placard in each hallway leading to such fire escapes. [1913, c. 8, §13; Code 1923, c. 15N, §13.]

Sec. 20. Knotted Rope or Other Fire Escape in Hotel.—Each keeper of a hotel in this State shall provide and keep constantly in each room of the hotel, above the second floor, a knotted rope, wire ladder or other proper fire escape of sufficient strength and length, strongly attached or fastened to some outside window in said room, by which any person or persons in any of the rooms in such building may escape from the windows in case of fire: *Provided*, That the provisions of this section shall not apply to any hotel that has a regular and proper fire escape, connected with each hall in said hotel. [1883, c. 63, §§1, 2; Code 1923, c. 15S, §§6, 7.]

Sec. 21. Fire Extinguishers.—Every hotel shall be provided with one fire extinguisher, of style and size approved by the national board of fire underwriters, on each floor containing twenty-five hundred square feet of floor area; and one additional fire extinguisher on each floor for each additional twenty-five hundred square feet of floor area, or fraction thereof. Every such extinguisher shall be placed in a convenient location in the public hallway, outside of sleeping rooms, at or near the head of stairs, and shall always be in condition for use. [1913, c. 8, §14; Code 1923, c. 15N, §14.]

Sec. 22. Liability of Hotel or Restaurant Keeper for Loss of Property; Deposit of Valuables.—It shall be the duty of the keepers of hotels and restaurants to exercise due care and diligence in providing honest servants and employees, and to take every reasonable precaution to protect the persons and property of their guests and boarders, but no such keeper of any hotel or restaurant shall be held liable in a greater sum than two

hundred and fifty dollars for the loss of any wearing apparel, baggage or other property, not hereinafter mentioned, belonging to a guest or boarder, when such loss takes place from the room or rooms occupied by said guest or boarder; and no keeper of a hotel or restaurant shall be held liable for any loss on the part of any guest or boarder of jewelry, money or other valuables of like nature, provided such keeper shall have posted in a conspicuous place in the room or rooms occupied by such guest or boarder, and in the hotel office and public reception room of such hotel or restaurant, a notice stating that jewelry, money and other valuables of like nature must be deposited in the office of such hotel (or restaurant), unless such loss shall take place from such office after such deposit. [1899, c. 48, §33; Code 1923, c. 145, §33.]

Sec. 23. Offenses.—Any person, firm or corporation who shall operate a hotel or a restaurant in this State, or who shall let a building to be used for such purposes, without first having complied with the provisions of this article, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined five dollars for each day such failure to comply shall continue. [1913, c. 8, §22; Code 1923, c. 15N, §22.]

Sec. 24. Prosecution.—The prosecuting attorney of each county in this State is hereby authorized and required, upon complaint under oath of the hotel inspector, or other person or persons, to prosecute to termination before any court of competent jurisdiction, in the name of the State, a proper action or proceeding against any person or persons violating the provisions of this article. [1913, c. 8, §23; Code 1923, c. 15N, §23.]

ARTICLE 7. PURE FOOD AND DRUGS

Sec.

Section 1. Manufacturing or Sale of Adulterated Food or Drugs Prohibited; Definition of Terms.—No person shall, within this State, manufacture for sale, offer for sale, or sell, any drug or article of food, which is adulterated within the meaning of this article. The term "drug", as used herein, shall include all medicines for internal or external use, antiseptics, disinfectants and cosmetics. The term"food", as used herein, shall include all articles used for food, drink, confectionery or condiment by man, whether simple, mixed or compound. [1907, c. 68, §2; Code 1923, c. 150, §20b(2).]

Sec. 2. What Constitutes Adulteration.—Any drug or article of food shall be deemed to be adulterated within the meaning of this article:

(a) In the case of drugs: (1) If, when sold under or by a name recognized in the United States Pharmacopoeia official at that time, it differs from the standard of strength, quality or purity laid down therein; (2) if, when sold under or by a name not recognized in the United States Pharmacopoeia official at the time, but which is found in some other pharmacopoeia or other standard work of materia medica, it differs materially from the standard of strength, quality or purity laid down in such work; (3) if its strength, quality or purity falls below the professed standard under which it is sold; (4) if it be an imitation of, or offered for sale under the name of, another article; (5) if the contents of the package as originally put up shall have been removed in whole or in part, and other contents shall have been placed in such package, or if the package fails to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide or any derivative or preparation of any such substance contained therein: *Provided,* That nothing in this paragraph shall be construed to apply to the

dispensing of prescriptions written by regular licensed practicing physicians, veterinary surgeons or dentists, and kept on file by the dispensing pharmacists, nor to such drugs as are recognized in the United States Pharmacopoeia and the National Formulary, which are sold under the name by which they are recognized;

(b) In the case of food, drink, confectionery or condiment: (1) If any substance or substances have been mixed with it, so as to lower or depreciate or injuriously affect its quality, strength or purity; (2) if any inferior or cheaper substance or substances have been substituted wholly or in part for it; (3) if any valuable or necessary constituent or ingredient has been wholly or in part abstracted from it; (4) if it is an imitation of, or is sold under the name of, another article; (5) if it consists wholly or in part of diseased, decomposed, putrid, infected, tainted or rotten animal or vegetable substance, whether manufactured or not, or, in the case of milk, if it is the product of a diseased animal; (6) if it is colored, coated, polished or powdered, whereby damage or inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is; (7) if it contains any added substance or ingredients which are poisonous or injurious to the health; (8) if it is sold under a coined name and does not contain some ingredient suggested by such name or contains only an inconsiderable quantity; (9) if the package containing it or any label thereon shall bear any statement regarding it or its composition which shall be false or misleading in any particular: *Provided,* That the provisions of this article shall not apply to mixtures or compounds recognized as ordinary articles or ingredients of articles of food or drink, if each and every package sold or offered for sale is distinctly labeled in words of the English language as mixtures or compounds, with the name and per cent of each ingredient therein; the word "compound" or "mixture" shall be printed in type not smaller in either height or width than one-half the largest type upon any label on the package, and the formula shall be printed in letters not smaller in either height or width than one-fourth the largest type upon any label on the package, and said compound or mixture must not contain any ingredients injurious to the health. [1907, c. 68, §§3, 4; Code 1923, c. 150; §§20b(3) (4).]

Sec. 3. Inspection and Analysis of Food and Drugs.—Whenever the state department of health, the West Virginia board of pharmacy, or any county or municipal health officer has reason to believe that any food or drug manufactured for sale, offered for sale, or sold, within this State, is adulterated, such department of health or board of pharmacy, by its authorized agent, or such county or municipal health officer, shall have the power, and it shall be his duty, to enter, during the usual hours of business, into any creamery, factory, store, sales room, drug store, laboratory, or other place where he has reason to believe such food or drug is manufactured, prepared, sold, or offered for sale, within the county or municipality, as the case may be, and to open any case, tub, jar, bottle or package containing, or supposed to contain, any such food or drug, and take a specimen thereof for examination and analysis. If less than a

whole package is taken, the specimen shall be sealed and properly prepared for shipment to the person who shall make the analysis hereinafter provided for. No whole or less than a whole package taken and prepared for shipment shall be opened before it has been received by the analyst aforesaid.

It shall be the duty of the chief chemist of the state hygienic laboratory to test and analyze any such specimen, to record the result of his analysis among the records of the laboratory, and to certify such findings to the state department of health, the West Virginia board of pharmacy, or to the county or municipal health officer, as the case may be. If the analysis indicates that the said food or drug is adulterated, a certificate of such result sworn to by the person making the analysis, who shall also state in his certificate the reasonable cost and expense of such analysis, shall be prima facie evidence of such adulteration in prosecution under this article. [1907, c. 68, §1; 1913, c. 24, §19a; Code 1923, c. 150, §§19a, 20b(1).]

Sec. 4. Adulteration of Food or Drugs; Sale; Penalties.—Whoever, by himself or his agents, knowingly adulterates or causes to be adulterated any article of food or drug, or knowingly manufactures for sale, offers for sale, or sells, within this State, any article of food or drug which is adulterated within the meaning of this article, without making the same known to the buyer, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding five hundred dollars, or confined in jail not more than one year, or both, in the discretion of the court; and in addition to the penalties hereinbefore provided, he shall be adjudged to pay the cost and expense of analyzing such adulterated food or drug, as set forth in the certificate of the person making the analysis, not exceeding twenty-five dollars in any one case, which shall be included in the costs of such prosecution and taxed in favor of the state department of health or the West Virginia board of pharmacy, as the case may be; and if he be a registered pharmacist or assistant pharmacist, his name shall be stricken from the register. The adulterated article shall be forfeited and destroyed. All acts and parts of acts inconsistent herewith are hereby repealed in so far, and only so far, as they are inconsistent with this particular act. [Code 1849, c. 197, §§1, 2; Code 1860, c. 197, §§1, 2; Code 1868, c. 150, §§ 1, 2; 1881, c. 52, §7; 1882, c. 93, §§19, 20, c. 112, §7; 1907, c. 68, §§5, 8; 1907, Ex. Sess., c. 12, §18; 1913, c. 24, §§19, 19a; Code 1923 c. 150, §§19, 19a, 20, 20b(5) (8), 29b(18); 1935, c. 47.]

Sec. 5. Regulation by Public Health Council as to Milk and Milk Products.—The public health council shall adopt regulations to provide clean and safe milk and fresh milk products, and, when promulgated, these regulations shall be the minimum requirements to be enforced by local health authorities throughout the State. A copy of such regulations shall be furnished the commissioner of agriculture for his guidance in performing any duties with relation to milk and milk products imposed on him by law. [1915, c. 11, §10; 1919, c. 96, §2; Code 1923, c. 150, §2.]

Sec. 6. Killing Young Calves for Sale—Whoever, by himself or his agents, kills, for the purpose of sale, any calf less than four weeks old, or sells, or has in his possession with the intent to sell, the meat of any calf which he knows to have been killed when less than four weeks old, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five nor more than fifteen dollars, or imprisoned not more than sixty days, or both. [1907, c. 68, §7; Code 1923, c. 150, §20b(7).]

Sec. 7. Selling, etc. of Meats Containing Preservatives; Penalties.—If any person shall sell, ship, consign, offer for sale, expose for sale, or have in possession with intent to sell as fresh, any meat, poultry, game or shell fish which contains any substance, article or ingredient possessing a preservative character or action, or which contains any coal-tar dye, or any other substance or ingredient possessing a coloring character or action, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one hundred dollars and all costs, or shall be imprisoned in the county jail not less than sixty days nor more than ninety days, or both, at the discretion of the court. Upon a second conviction he shall be fined not less than two hundred dollars nor more than four hundred dollars, or be imprisoned not less than sixty days nor more than four months, or both, at the discretion of the court; *Provided*, That nothing in this section shall be construed to prohibit the use of ice as a preservative, or the use of refrigeration. [1937, c. 31.]

Sec. 8. Artificial Coloring of Meat and Meat Products.—All meats, meat products and meat food products, when manufactured, sold or exposed for sale, for human consumption in this state, shall not be artificially colored with any dye, chemical or other substance, except natural wood smoke, sugar, salt, pepper, saltpeter and borax. [1937, c. 31.]

Sec. 9. Enforcement.—The state department of health shall be charged with the enforcement of all the provisions of this act and all penalties which may be recovered shall be paid to the treasurer of the State of West Virginia general fund. [1937, c. 31.]

Sec. 10. Adulterated Articles to Be Forfeited and Destroyed.—All articles adulterated in violation of the provisions of this act shall be forfeited by the owner and destroyed by the state department of health. [1937, c. 31.]

Sec. 11. Pending Actions.—The repeal of inconsistent acts shall in no way interfere with or prevent the prosecution to final termination of any action or prosecution now pending or which may hereafter be commenced for any violation of said act which has already been committed. [1937, c. 31.]

ARTICLE 8. POISONS AND NARCOTICS

Sec.

Section 1. Sale or Gift of Poisons.—No person, firm or corporation shall sell, give away or otherwise dispense any of the poisons enumerated in schedules "A" and "B" of this article, unless the box, bottle, vessel or package containing the poison is distinctly labeled with a device bearing the death's head and cross bones, the name of the substance, the word "Poison," the name of one or more antidotes therefor, and the name and place of business of the seller. The seller shall also ascertain, upon due inquiry, that the purchaser is aware of the poisonous nature of the drug, and that it is to be used for legitimate and lawful purposes; and, before delivering to the purchaser any of the poisons named in schedule "A," the seller shall cause an entry to be made in a book kept for that purpose, which entry shall show the date of the sale, the name and residence of the purchaser, the name and quantity of the poison sold, the purpose for which it is to be used, as represented by the purchaser, and the name of the dispenser. Such book shall be preserved for at least five years from the date of the last entry and shall at all times be subject to inspection by the proper authorities. [1872-3, c. 180, §1; 1881, c. 52, §9; 1882, c. 112, §9; 1883, c. 82, §9; 1907, Ex. Sess., c. 12, §§20, 23; Code 1923, c. 150, §29b(20)(23).]

Sec. 2. Schedule A.—Schedule A, as used in this article, shall include arsenic and its preparations, corrosive sublimate, red precipitate, biniodide of mercury, cyanid of potassium, hydrocyanic acid, strychnia, carbolic acid and essential oil of bitter almonds. [1872-3, c. 180, §1; 1881, c. 52, §9; 1882, c. 112, §9; 1883, c. 82, §9; 1907, Ex. Sess., c. 12, §21; 1909, c. 72, §21; Code 1923, c. 150, §29b(21).]

Sec. 3. Schedule B.—Schedule B, as used in this article, shall include aconite, belladonna, colchicum, conium, nux vomica, henbane, savin, ergot, cotton root, cantharides, creosote, digitalis, and their pharmaceutical preparations, croton oil, chloroform, sulphate of zinc, sulphate of copper, acetate of lead, mineral acids and oxalic acid. [1872-3, c. 180, §1; 1881, c. 52, §9; 1882, c. 112, §9; 1883, c. 82, §9; 1907, Ex. Sess., c. 12, §22; 1909, c. 72, §22; Code 1923, c. 150, §29b(22).]

Sec. 4. Limitation of Preceding Sections.—The provisions of the three preceding sections shall not apply to any registered pharmacist or assistant pharmacist dispensing such poisons to, or on the written order or prescription of, a licensed physician, dentist or veterinarian, nor to any such practitioner dispensing such poisons in the regular course of his practice; and the record of sale and delivery therein mentioned shall not be required of manufacturers or wholesalers selling any of such poisons at wholesale, if the box, bottle, vessel or package containing such substance, when sold at wholesale, is labeled with the name of the substance, the word "Poison," and the name and address of the manufacturer or wholesaler. [1872-3, c. 180, §1; 1881, c. 52, §9; 1882, c. 112, §9; 1883, c. 82, §9; 1907, Ex. Sess., c. 12, §24; 1909, c. 72, §24; Code 1923, c. 150, §29b(24).]

Sec. 5. Sale of Concentrated Lye; Label; Penalty.—It shall be unlawful to sell or expose for sale in this State concentrated lye or similar substance, unless the same be plainly labeled, in large eligible letters, "caustic poison," and with skull and cross bones both in red. Any person violating this section shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than fifty nor more than five hundred dollars. [1925, c. 26, §1.]

Sec. 6. Sale or Gift of Narcotic Drugs; Penalty; Exceptions.—No person shall sell, give away or otherwise dispense cocaine, alpha or beta eucaine, opium, morphine, heroin, chloral hydrate, or any preparation or compound containing any of the foregoing drugs or substances, except on the original written prescription of a physician, dentist or veterinarian duly licensed under the laws of this State, in good standing in his profession, and not of intemperate habits or addicted to the use of any drug. Each prescription shall be filled only once. Any person violating the provisions of this section shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary of this State not less than one or more than ten years for each offense, and, if a registered pharmacist or assistant pharmacist, his certificate of registration shall be revoked: *Provided,* That nothing herein contained shall be construed to prohibit the sale or gift of any of the foregoing drugs or substances, preparations or compounds, by any licensed manufacturing pharmacist or chemist or wholesale or retail pharmacist or druggist to another licensed manufacturing pharmacist or chemist or wholesale or retail pharmacist or druggist, or to hospitals, colleges, or scientific or public institutions, or to licensed physicians, dentists or veterinarians; nor sales made to manufacturers of proprietary or pharmaceutical preparations for use in the

manufacture of such preparations; nor the use of any of said drugs or substances, preparations or compounds, by any licensed physician, dentist or veterinarian in the regular course of his practice. [1891, c. 10, §§1, 2, 3; 1907, Ex. Sess., c. 12, §§25, 26; 1909, c. 72, §26; 1911, c. 16, §1; 1913, c. 16, §5; Code 1923, c. 150, §§20e(5), 29b(25) (26), 29c(1).]

Sec. 7. Possession of Narcotic Drugs; Penalty; Prima Facie Evidence; Exception.—If any person, except a licensed physician, dentist or veterinarian, manufacturing pharmacist or chemist, or wholesale or retail pharmacist or druggist, have in his possession cocaine, alpha or beta eucaine, opium, morphine, heroin, chloral hydrate, or any preparation or compound containing any of the foregoing drugs or substances, with intent to sell, give away or otherwise dispense the same, he shall be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary of this State not less than one nor more than ten years; and possession of any of the foregoing drugs or substances, preparations or compounds, except by a licensed physician, dentist, veterinarian, manufacturing pharmacist or chemist, wholesale or retail pharmacist or druggist, or on the written prescription of a licensed physician, dentist or veterinarian in good standing in his profession, not of intemperate habits or addicted to the use of any drug, shall be prima facie evidence of an intent to sell, give away or otherwise dispense the same: *Provided,* That nothing herein contained shall be construed to apply to any hospital, college or scientific or public institution. [1911, c. 16, §2; Code 1923, c. 150, §29c(2).]

Sec. 8. Contents of Prescription for Narcotic Drugs; Filing; Penalty.—Every prescription for the use of cocaine, alpha or beta eucaine, opium, morphine, heroin, chloral hydrate, or any preparation or compound containing any of the foregoing drugs or substances, shall be dated, shall contain the name and address, plainly written, of the patient for whom the same has been prescribed, or, if given by a veterinarian, the kind of animal for which prescribed and the name and address of the owner thereof, shall plainly set forth the quantity of the substance prescribed, and shall be signed by the person giving the prescription. Such original prescription shall be permanently retained on file by the person, firm or corporation which compounds or dispenses the substance prescribed. No copy or duplicate of such prescription shall be made or delivered to any person, but the original shall at all times be open to inspection by the prescriber and by properly constituted officers of the law. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five nor more than two hundred dollars, and in addition to such fine any person so convicted may, in the discretion of the court, be confined in the county jail for a period not exceeding six months. [1907, Ex. Sess., c. 12, §§25, 26; 1909, c. 72, §26; 1911, c. 16, §3; Code 1923, c. 150, §§29b(25) (26), 29c(3).]

Sec. 9. When Unlawful to Furnish or Prescribe Narcotic Drugs.—It shall be unlawful for any physician or dentist to furnish to or pre-

scribe for the use of any habitual user of the same any cocaine, alpha or beta eucaine, opium, morphine, heroin, chloral hydrate, or any preparation or compound containing any of the foregoing drugs or substances. It shall also be unlawful for any physician or dentist to furnish or prescribe any of the foregoing drugs or substances for the use of any person not under his treatment in the regular practice of his profession, or for any veterinarian to furnish or prescribe any of the foregoing drugs or substances for the use of any human being: *Provided, however*, That the provisions of this section shall not be construed to prevent any licensed physician from furnishing or prescribing in good faith, for the use of any habitual user of narcotic drugs who is under his professional care, such substances as he may deem necessary for his treatment, when such prescriptions are not given or substances furnished for the purpose of evading the provisions of this article [1907, Ex Sess., c. 12, §27; 1909, c. 72, §27; Code 1923, c. 150, §29b(27).]

Sec. 10. Limitation of Four Preceding Sections.—The provisions of the four preceding sections shall not apply to preparations containing not more than one-half grain of opium, or not more than one-half grain of codein, or not more than one-eighth grain of morphine, or not more than one-twelfth grain of heroin, or not more than one-thirty-second grain of cocaine, or not more than one-thirty-second grain of alpha or beta eucaine, or not more than two grains of chloral hydrate in each dose; nor to preparations containing opium and recommended and sold in good faith for diarrhoea and cholera, each bottle or package of which is accompanied by specific directions for use and a caution against habitual use; nor to powder of ipecac and opium, commonly known as Dover's powder; nor to liniments or ointments when plainly labeled "for external use only." [1907, Ex. Sess., c. 12, §26; 1909, c. 72, §26; Code 1923, c. 150, §29b(26).]

Sec. 11. Penalties for Violation of Provisions of Article Generally; Second Conviction; Prosecutions.—Any person, firm or corporation violating any of the provisions of this article, where punishment is not otherwise provided, shall be guilty of a misdemeanor, and upon conviction for the first offense, shall be fined not less than twenty-five nor more than fifty dollars; and, upon conviction for a second offense, shall be fined not less than fifty nor more than one hundred dollars; and, upon conviction for a subsequent offense, shall be fined not less than one hundred nor more than two hundred dollars, and, in addition to such fine, any person so convicted may be imprisoned in the county jail for not more than six months.

If the convicted person be a licensed pharmacist, assistant pharmacist, physician, dentist or veterinarian, it shall be the duty of the clerk of the court in which any such conviction is had to transmit forthwith a certified copy of the record entry of such conviction to the state board of pharmacy, the state public health council, the state board of dental examiners, or the state veterinary examining board, as the case may be, which shall, upon a second conviction of such person, revoke his license

and strike his name from the register, and it shall be unlawful for such person thereafter to practice the business of pharmacy, conduct a drug store, act as a registered pharmacist or assistant pharmacist, or practice the profession of medicine, dentistry or veterinary medicine, as the case may be, in this State.

It shall be the duty of the board of pharmacy to cause the prosecution of all persons violating the provisions of this article. [1907, Ex. Sess., c. 12, §§27, 30; 1909, c. 72, §27; Code 1923, c. 150, §29b(27)(30).]

ARTICLE 8a. UNIFORM NARCOTIC DRUG ACT

Sec.

Section 1. Definitions.—The following words and phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:

1. "Person" includes any corporation, association, co-partnership, or one or more individuals.

2. "Physician" means a person authorized by law to practice medicine in this state and any other person authorized by law to treat sick and injured human beings in the state and to use narcotic drugs in connection with such treatment.

3. "Dentist" means a person authorized by law to practice dentistry in this state.

4. "Veterinarian" means a person authorized by law to practice veterinary medicine in this state.

5. "Manufacturer" means a person who, by compounding, mixing, cultivating, growing, or other process, produces or prepares narcotic drugs, but does not include a pharmacist who compounds narcotic drugs to be sold or dispensed on prescriptions.

6. "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced or prepared, on official written orders, but not prescriptions.

7. "Pharmacist" means a licensed pharmacist as defined by the laws of this state.

8. "Pharmacy Owner" means the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a registered pharmacist; but nothing in this act contained shall be construed as conferring on a person who is not registered or licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this state.

9. "Hospital" means an institution for the care and treatment of the sick and injured, approved by the state board of pharmacy as proper to be entrusted with the custody of narcotic drugs and the professional use of narcotic drugs under the direction of a physician, dentist, or veterinarian.

10. "Laboratory" means a laboratory approved by the state board of pharmacy as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for purposes of instruction.

11. "Sale" includes barter, exchange, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

12. "Coca Leaves" includes cocaine and any compound, manufacture, salt, derivatives mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecognine, or substances from which cocaine or ecognine may be synthesized or made.

13. "Opium" includes morphine, codein, and heroin, and any compound, manufacture, salt, derivative, mixture, or preparation of opium.

14. "Narcotic drugs" means coca leaves and opium.

15. "Federal Narcotic Laws" means the laws of the United States relating to opium, coca leaves, and other narcotic drugs.

16. "Official Written Order" means an order written on a form provided for that purpose by the United States commissioner of narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the state board of pharmacy.

17. "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

18. "Registry Number" means the number assigned to each person registered under the federal narcotic laws. [1935, c. 46, §1.]

Sec. 2. Prohibited Manufacture, Sale, Etc.—No person shall manufacture, possess, have under his control, sell, prescribe, administer, dispense, or compound any narcotic drug, except as authorized in this act. [1935, c. 46, §2.]

Sec. 3. License to Manufacture, Etc., or Supply at Wholesale.—No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the state board of pharmacy.

A fee of ten dollars shall be charged and collected by the state board of pharmacy for each manufacturer's and each wholesaler's license issued under the provision of this section. The license shall be for the calendar year, and shall be renewable on the first day of January of each year. [1935, c. 46, §3.]

Sec. 4. Proof to be Furnished by Applicant for License; When Not to be Granted; Suspension or Revocation.—No license shall be issued under the foregoing section unless and until the applicant therefor has furnished proof satisfactory to the state board of pharmacy:

(a) That the applicant is of good moral character, or if the applicant be an association or corporation, that the managing officers are of good moral character;

(b) That the applicant is equipped as to land, buildings, paraphernalia properly to carry on the business described in his application; and that his trade connections are such that there is reasonable probability that he will apply all narcotic drugs manufactured or sold by him to medicinal and scientific purposes;

(c) No licenses shall be granted to any person who has within five years been convicted of a willful violation of any law of the United States, or of any state, relating to opium, coca leaves, or other narcotic drugs, or to any person who is a narcotic drug addict;

(d) The state board of pharmacy may suspend or revoke any license for cause. [1935, c. 46, §4.]

Sec. 5. Sales by Licensed Manufacturer or Wholesaler; Limitation on Right to Administer.—(1) A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

a. To a manufacturer, wholesaler or pharmacist;

b. To a physician, dentist or veterinarian;

c. To a person in charge of a hospital, but only for use by or in that hospital: *Provided,* That the official written order is signed by a physician, dentist, veterinarian or pharmacist connected with such hospital;

d. To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes.

(2) A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons:

a. On a special written order accompanied by a certificate of exemption as required by the Federal Narcotic Laws, to a person in the employ of the United States government or of any state, territorial, district, county, municipal or insular government purchasing, receiving, possessing or dispensing narcotic drugs by reason of his official duties;

b. To a master of ship or a person in charge of any aircraft upon which no physician is regularly employed, for the actual medical needs of persons on board such ship or aircraft, when not in port: *Provided,* That such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States public health service;

c. To a person in a foreign country if the provisions of the federal narcotic laws are complied with.

3. An official written order for any narcotic drug shall be signed in duplicate by the person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this act. Compliance with the federal narcotic laws, by the parties to the transaction, shall be deemed compliance with this subsection, respecting the requirements governing the use of order forms.

4. Possession of or control of narcotic drugs obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment or duty of the possessor.

5. A person in charge of a hospital or of a laboratory, or in the employ of this state or of any other state, or of any political subdivision thereof, and a master or other proper officer of a ship or aircraft, who obtains narcotic drugs under the provisions of this section or otherwise, shall not administer, nor dispense, nor otherwise use such drugs, within this state, except within the scope of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this act. [1935, c. 46, §5.]

Sec. 6. Sales by Pharmacists Upon Prescriptions or by Legal Owner Discontinuing Business; Solutions Containing Narcotic Drugs.—1. A pharmacist, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist, or veterinarian: *Provided*, That such prescription is properly executed, dated and signed by the person prescribing on the day when issued, and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal narcotic laws, of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this act. The prescription shall not be refilled.

2. The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler, pharmacist or pharmacy owner, but only on an official written order.

3. A pharmacist, only upon an official written order, may sell to a physician, dentist, or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drug does not exceed a proportion greater than twenty per cent of the complete solution, to be used for medical purposes. The original order form must be filed by the pharmacist with his narcotic prescriptions. Each package containing an aqueous or oleaginous solution so furnished must bear a label showing the date and number of the order form, the name and proportion of narcotic drug contained in the solution, the name, address, and registry number of the person furnishing the order, and the name, address and registry number of the pharmacist or pharmacy owner filling the order. [1935, c. 46, §6.]

Sec. 7. Prescription for, or Administering, Narcotic Drugs by Physician, Dentist or Veterinarian.—1. A physician or dentist, in good faith and in the course of his professional practice only, may prescribe on written prescription, administer, and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision. Such a prescription shall be dated and signed by the person prescribing on the day when issued, and shall bear the full name and address of the patient for whom the narcotic drug is prescribed, and the full name, address and registry number under the narcotic laws of the person prescribing: *Provided,* That he is required by those federal laws to be so registered.

2. A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe on written prescription, administer, and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision. Such a prescription shall be dated and signed by the person prescribing on the day when issued and shall bear the full name and address of the owner of the animal, and the species of the animal, for which the narcotic drug is prescribed, and the full name, address, and registry number under the federal narcotic laws of the person prescribing provided he is required by those laws to be so registered. [1935, c. 46, §7.]

Sec. 8. To What Acts or Sales Article Not Applicable.—Except as otherwise in this act specifically provided, this act shall not apply to the following cases:

1. Prescribing, administering, dispensing, or selling at retail of any medicinal preparation that contains not more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codein, or any salt or derivative of any of them in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce.

2. Prescribing, administering, dispensing, or selling at retail of liniments, ointments, and other preparations that are susceptible of external use only and that contain narcotic drugs in such combinations as prevent their being readily extracted from such liniments, ointments, or preparations, except that this act shall apply to all liniments, ointments, and other preparations, that contain coca leaves in any quantity or combination.

3. The exceptions authorized by this section shall be subject to the following conditions:

a. The medicinal preparation, or the liniment, ointment, or other preparations susceptible of external use only, prescribed, administered, dispensed, or sold, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone;

b. Such preparation shall be prescribed, administered, compounded, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this act;

c. Nothing in this section shall be construed to limit the kind and quality of any narcotic drug that may be prescribed, administered, compounded, dispensed, or sold, to any person or for the use of any person or animal, when it is prescribed, administered, compounded, dispensed, or sold, in compliance with the general provisions of this act. [1935, c. 46, §8.]

Sec. 9. Records to be Kept by Physicians, Manufacturers, Pharmacists and Others.—1. Every Physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. The keeping of a record by any such person using small quantities of solutions or other preparations of such drugs for local application, of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients, shall constitute a sufficient compliance with this subsection.

2. Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection five of this section.

3. Pharmacists and pharmacy owners shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection five of this section.

4. Every person who purchases for resale, or who sells narcotic drug preparations exempted by section eight of this act, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise, in accordance with the provisions of subsection five of this section.

5. The form of records shall be prescribed by the state board of pharmacy. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received, the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecognine contained in or producible from crude opium or coca leaves received or produced.

The record of all narcotic drugs sold, administered, compounded, dispensed, or otherwise disposed of, shall show the date of selling, adminis-

tering, compounding, or dispensing, the name and address of the person to whom or for whose use, or the owner and species of animal for which the drugs were sold, administered, compounded, or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the federal narcotic laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft. [1935, c. 46, §9.]

Sec. 10. Labels Affixed to Narcotic Drugs Sold or Dispensed.—1. Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. No person, except a pharmacist for the purpose of filling a prescription under this act shall alter, deface, or remove any label so affixed.

2. Whenever a pharmacist sells or dispenses any narcotic drug on a prescription issued by a physician, dentist or veterinarian, he shall affix to the container in which said drug is sold or dispensed, a label showing his name or the name of the store, address, and registry number, or the name, address, and registry number of the pharmacist for which he is lawfully acting; the serial number of the prescription; the name and address of the patient, or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name, address and registry number of the physician, dentist, or veterinarian, by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed, so long as any of the original contents remain. [1935, c. 46, §10.]

Sec. 11. Narcotic Drug to Remain in Container in Which Sold.—A person to whom or for whose use any narcotic drug has been prescribed, sold, or dispensed, by a physician, dentist, pharmacist, or other person authorized under the provisions of section five of this act, and the owner of any animal for which any such drug has been prescribed, sold, or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same. [1935, c. 46, §11.]

Sec. 12. To Whom Provisions Restricting Possession and Control Do Not Apply.—The provisions of this act restricting the possessing and having control of narcotic drugs shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such drugs, or to any employee of the same acting within the scope of his employment; or to public officers or their employees in the performance of their official

duties requiring possession or control of narcotic drugs; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties. [1935, c. 46, §12.]

Sec. 13. What Stores, Vehicles, etc., Deemed Common Nuisances.—Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by narcotic drug addicts for the purpose of using narcotic drugs or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance. No person shall keep or maintain such a common nuisance. [1935, c. 46, §13.]

Sec. 14. Forfeiture of Narcotic Drugs.—All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited, and disposed of as follows:

a. The court or magistrate having jurisdiction shall immediately notify the state board of pharmacy and unless otherwise requested within fifteen days by the state board of pharmacy, in accordance with subsection b. of this section shall order such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place and manner of destruction, shall be kept, and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the United States commissioner of narcotics, by the officer who destroys them;

b. Upon written application by the state board of pharmacy the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said state board of pharmacy, for distribution or destruction, as hereinafter provided;

c. Upon application by any hospital or institution within this state, not operated for private gain, the state board of pharmacy may in its discretion deliver any narcotic drugs that have come into its custody by authority of this section to the applicant for medicinal or scientific use. The state board of pharmacy may from time to time deliver excess stocks of such narcotic drugs to the United States commissioner of narcotics, or may destroy same;

d. The state board of pharmacy shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state narcotic laws. [1935, c. 46, §14.]

Sec. 15. To whom Copy of Judgment and Sentences to be Sent; Suspension or Revocation of License; Reinstatement.—On the conviction of any person of the violation of any provision of this act, a copy of the

judgment and sentence, and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court, or by the magistrate, to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. A duplicate copy of the judgment and sentence and opinion, if any opinion be filed, shall be sent to the state board of pharmacy.

On the conviction of any such person the court may, in its discretion, suspend or revoke the license or registration of the convicted defendant to practice his profession or to carry on his business. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing and for good cause, said board or officer may reinstate such license or registration. [1935, c. 46, §15.]

Sec. 16. Inspection of Prescriptions, etc., Divulging Knowledge Obtained Thereby.—Prescriptions, orders, and records, required by this act, and stocks of narcotic drugs, shall be open for inspection only to federal, state, county and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order or records shall divulge such knowledge, except in connection with a prosecution or proceedings in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate, is a party. [1935, c. 46, §16.]

Sec. 17. Obtaining Narcotic Drugs by Fraud, etc.—1. No person shall obtain or attempt to obtain a narcotic drug, or procure or attempt to procure the administration of a narcotic drug, (a) by fraud, deceit, misrepresentation, or subterfuge; or (b) by forgery or alteration of a prescription or of any written order; (c) by the concealment of a material fact; or (d) by the use of a false name or the giving of a false address.

2. Information communicated to a physician in an effort to unlawfully procure a narcotic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

3. No person shall willfully make a false statement in any prescription, order, report, or record, required by this act.

4. No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, pharmacy owner, physician, dentist, veterinarian, or other authorized person.

5. No person shall make or utter any false or forged prescription or false or forged written order.

6. No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

7. The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of section eight of this act, and in the same way as they apply to transactions under all other sections. [1935, c. 46, §17.]

Sec. 18. Indictments Need Not Negative Exceptions, etc.—In any complaint, information or indictment, and in any action or proceeding brought for the enforcement of any provision of this act, it shall not be necessary to negative any exception, excuse, proviso, or exemption, contained in this act, and the burden of proof of any such exception, excuse, proviso, or exemption, shall be upon the defendant. [1935, c. 46, §18.]

Sec. 19. Written Prescriptions Required for Sale of Cannabis, etc.—No cannabis, including the following substances under whatever names they may be designated (a) the dried flowering or fruiting tops of the pistillate plant of Cannabis Sative L., from which the resin has not been extracted, or (b) the resin extracted from such tops, or (c) any compound, manufacture, mixture or preparation of such resin, or of such tops from which the resin has not been extracted, shall be sold at retail or dispensed at retail to any person except upon the written prescription of a physician, dentist, or veterinarian: *Provided, however,* that nothing in this section shall prevent a registered pharmacist from supplying any of the said drugs to a physician, dentist, veterinarian, or accredited hospital for medicinal use: *Provided further,* That nothing in this section shall prevent the sale or dispensing at retail of preparations containing cannabis when used for external purposes. [1935, c. 46, §19.]

Sec. 20. Written Prescription Required for Sale of Chloral Hydrate, etc.—No chloral hydrate, or any compound, manufacture, mixture, or preparation thereof containing over two grains to the ounce, shall be sold at retail or dispensed at retail to any person except upon the written prescription of a physician, dentist, or veterinarian: *Provided, however,* That nothing in this section shall prevent a registered pharmacist from supplying any of the said drugs to a physician, dentist, veterinarian, or accredited hospital for medical use. [1935, c. 46, §20.]

Sec. 21. Written Prescription Required for Sale of Malonylurea (Barbituric Acid), etc.—No malonylurea (Barbituric acid), as such, or diethyl-malonylurea, as such, or any sodium or potassium salt of either of them, under whatever name they may be designated, or any sodium or potassium salt of any chemical derivative of malonylurea, or diethyl-malonylurea, under whatever name they may be designated, that may be classed as a dangerous hypnotic or narcotic as defined by regulations of the state board of pharmacy, shall be sold at retail or dispensed at retail to a person except upon the written prescription of a physician, dentist, or veterinarian: *Provided, however,* That nothing in this section shall prevent a registered pharmacist from supplying any of the said drugs to physicians, dentists, veterinarians and/or accredited hospitals for medicinal use: *Provided further,* That in order to carry out the intent of this section to control the misuse of certain drugs that no malonylurea or any of its salts, derivatives, mixtures, or preparations thereof shall be sold or dispensed, at retail, by any person not a pharmacist as defined. [1935, c. 46, §21.]

Sec. 22. Enforcement of Article.—The state board of pharmacy, its officers, agents, inspectors, and representatives, and all peace officers within the state, and all prosecuting attorneys of the state shall enforce all provisions of this act, except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs. [1935, c. 46, §22.]

Sec. 23. Penalty for Violation.—Any person violating any provision of this act shall upon conviction be punished, for the first offense, by a fine not exceeding one hundred dollars, or by imprisonment in jail for not exceeding one year, or by both such fine and imprisonment; and for any subsequent offense, by a fine not exceeding one thousand dollars or by imprisonment for not exceeding five years in the penitentiary or by both such fine and imprisonment. [1935, c. 46, §23.]

Sec. 24. Previous Acquittal or Conviction of Same Violation Under Federal Narcotic Act.—No person shall be prosecuted for a violation of any provision of this act if such person has been acquitted or convicted under the federal narcotic laws of the same act or omission which, it is alleged, constitutes a violation of this act. [1935, c. 46, §24.]

Sec. 25. Construction of Article.—If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable. [1935, c. 46, §25.]

Sec. 26. How Article Cited.—This act shall be interpreted and construed as to effectuate its general purpose, to make uniform the laws of these states which enact it. [1935, c. 46, §26.]

Sec. 27. Inconsistent Acts.—All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed. [1935, c. 46, §27.]

Sec. 28. Citation.—This act may be designated and cited as the "Uniform Narcotic Drug Act." [1935, c. 46, §28.]

ARTICLE 9. OFFENSES GENERALLY

Sec.

Section 1. Common Drinking Cup Prohibited; Penalty.—No person, firm or corporation owning and operating, or having the management or control of, any of the public places, vehicles or buildings hereinafter mentioned, shall furnish, or permit the use of, the common drinking cup on railroad trains, street cars, interurban cars or boats carrying passengers, in railroad or interurban stations, in any state or other public building, in the public, parochial or private schools or other educational institutions, in hotels, restaurants, theaters, department stores, or at public drinking springs and fountains within this State. The state department of health shall have full authority to establish rules and regulations to make the provisions of this section effective. Any person, firm or corporation failing to observe the provisions of this section, or the rules and regulations of the state department of health made in relation thereto, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than fifty dollars for each offense. [1913, c. 23, §§1, 2; Code 1923, c. 150, §20h.]

Sec. 2. Throwing Dead Animals or Offensive Substances into Waters Used for Domestic Purposes; Penalty.—Whoever knowingly and willfully shall throw, or cause to be thrown, any dead animal, carcass or part thereof, or any putrid, nauseous or offensive substance, into any well, cistern, spring, brook or branch of running water, which is used for domestic purposes, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five nor more than one hundred dollars, and may, at the discretion of the court, be confined in the jail of the county not exceeding ninety days, and, moreover, shall be liable to the party injured in a civil action for damages. [1872-3, c. 176, §1; Code 1923, c. 150, §20c.]

Sec. 3. Depositing Dead Animals or Offensive Substances in Waters or on or Near Roads, or on Public Grounds; Penalty; Failure to Bury or Destroy Offensive Substances after Conviction; Successive Offenses; Jurisdiction of Justices.—Whoever shall put the carcass of any dead animal, or the offals from any slaughter-house, butcher's establishment or packing house, or slop or other refuse from any hotel or tavern, or any spoiled meats or spoiled fish, or any putrid animal substance, or the contents of any privy vault, upon or into any river, creek or other stream within this State, or upon the surface of any road, street, alley, city or town lot, public ground, market space, or common or upon the surface of any land within one hundred feet of a public road; or whoever, being the owner or occupant of any such city or town lot, public ground, market space, common, or land, shall knowingly permit any of the things hereinbefore named to remain thereon, to the annoyance of any of the citizens of this State, or shall neglect or refuse to remove or abate the nuisance occasioned thereby, within twenty-four hours after knowledge of the existence of such nuisance, upon any of the above described premises owned or occupied by him, or after notice thereof in writing from the health officer of the county, or the mayor or health officer of the municipal corporation, as the case may be, in which any such nuisance exists, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five nor more than one hundred dollars.

Upon a conviction for any such offense, the accused shall, within twenty-four hours after such conviction, bury at least three feet under the ground, or destroy by fire, any of the things hereinbefore named which he has placed or knowingly permitted to remain upon such city or town lot, public ground, market space, common, or land, contrary to the provisions of this section, and his failure so to do shall constitute a second offense against the provisions of this section, and every like neglect of each twenty-four hours thereafter shall constitute an additional offense against the provisions of this section.

A justice of the peace shall have jurisdiction of any offense against the p ovisions of this section committed within his county. [1887, c. 25, §§1, 2, 3; Code 1923, c. 150, §20d.]

Sec. 4. Sale or Gift of Cigarette or Cigarette Paper to Person under Twenty-one, or of Cigar, Pipe or Tobacco to Person Under Sixteen; Penalty.—No person, firm or corporation shall sell, give or furnish, or cause to be sold, given or furnished, to any person under the age of twenty-one years, any cigarette or cigarette paper, or any other paper prepared to be filled with smoking tobacco for cigarette use; and no person, firm or corporation shall sell, give or furnish, or cause to be sold, given or furnished, to any person under the age of sixteen years, any cigar, pipe or tobacco in any form. Any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon a conviction thereof, shall be fined not less than ten nor more than twenty-five dollars for the first offense, and for each subsequent offense not less

than twenty-five nor more than three hundred dollars. [1891, c. 10, §§1, 2; 1913, c. 16, §§1, 6; Code 1923, c. 150, §20e(1)(6).]

Sec. 5. Smoking or Possession of Cigarette or Cigarette Paper by Person Under Twenty-one; Penalty; Immunity.—No person under the age of twenty-one years shall smoke, or have about his person or premises, any cigarette or cigarette paper or any other form prepared to be filled with smoking tobacco for cigarette use. Any person violating the provisions of this section shall be punished by a fine of not exceeding five dollars: *Provided,* That if any such person shall fully, freely and truthfully disclose the name of the person, firm or corporation from whom he obtained any such cigarette or cigarette paper, he shall be immune from further prosecution or punishment for said offense. [1913, c. 16, §2; Code 1923, c. 150, §20e(2).]

Sec. 6. Duties of Officers; Penalty for Failure to Perform.—It shall be the duty of every constable, policeman, town sergeant, sheriff, or his deputy, when he finds any person under the age of twenty-one years smoking a cigarette, or with a cigarette or a cigarette paper in his possession, immediately to inquire of such person where and of whom he obtained such cigarette or cigarette paper, and, upon failure of any person to give such information when requested by such officer, the officer shall arrest such person and take him before a justice or other officer having jurisdiction, to be dealt with as provided in the next preceding section of this article. Upon information of such person to said officer of the violation of any of the provisions of the two next preceding sections of this article, such officer shall immediately report such information to the prosecuting attorney of the county, who shall have the person giving such information, along with any other witnesses having any knowledge of the transaction, summoned before the grand jury at its next session for investigation. Any officer failing to perform the duties required of him by this section shall be fined not exceeding five dollars for each offense. [1913, c. 16, §3; Code 1923, c. 150, §20e(3).]

Sec. 7. Smoking Cigarettes in School Building or on School Grounds; Penalty.—Every person who shall smoke a cigarette or cigarettes in any school building, or in any building or part thereof used for school purposes, or on any lot or grounds used for school purposes, while the same is occupied or used for school purposes, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished for each offense by a fine of not less than one nor more than five dollars. [1913, c. 16, §4; Code 1923, c. 150, §20e(4).]

Sec. 8. Jurisdiction of Justices and Police Judges.—Justices of the peace and police judges shall have concurrent jurisdiction with the circuit and criminal courts of this State, of offenses under sections four to seven, both inclusive, of this article. [1913, c. 16, §3; Code 1923, c. 150, §20e(3).]

ARTICLE 10. STERILIZATION OF MENTAL DEFECTIVES

Sec.

1. Persons subject to sterilization; procedure; order of public health council.
2. Appeal to circuit court.
3. Appeal to supreme court.
4. Operation.
5. Exemption from civil or criminal liability.
6. Limitations of article.
7. Fee of guardian ad litem.

Section 1. Persons Subject to Sterilization; Procedure; Order of Public Health Council.—Whenever the superintendent of any of the following state institutions, namely, the Weston state hospital, the Huntington state hospital, the Spencer state hospital, the Lakin state hospital, the West Virginia industrial school for boys, the West Virginia industrial home for girls, the West Virginia industrial school for colored boys, or the West Virginia industrial home for colored girls, shall be of the opinion that it is for the best interests of the inmates of the institution of which he is superintendent and of society that any inmate of such institution who is afflicted with any hereditary form of insanity that is recurrent, idiocy, imbecility, feeble-mindedness or spilepsy should be sexually sterilized, such superintendent shall present to the public health council of this State a written petition stating the facts of the case and the grounds of his opinion, verified by his affidavit to the best of his knowledge and belief, and praying that an order may be entered by said council requiring him to perform, or to have performed by some competent physician or surgeon to be designated by him in his petition or by the council in its order, upon such inmate named in such petition, the operation of vasectomy if upon a male and salpingectomy if upon a female.

A copy of such petition shall be served upon such inmate named therein, together with a notice in writing designating the time and place in said institution, not less than thirty days before the presentation of such petition to the public health council, when and where the council will hear and act upon such petition. If such inmate has a parent, child, brother, sister, guardian or committee residing in this State whose name and place of residence are known to such superintendent, a copy of such petition and notice shall be served upon such parent or parents, child, brother, sister, guardian, or committee. If such notice cannot be so served, the superintendent shall file a copy of such petition in the office of the clerk of the county court of the county where the inmate last resided, and shall cause such notice to be published once a week for two

successive weeks in some newspaper of general circulation published in such county, and completed thirty days before the presentation of said petition to the council, the costs of which publication shall be paid out of the county treasury of the county wherein published. Such notice shall be in the following form:

To the next kin of.....: (Here name inmate or inmates, if more than one.)

Notice is given pursuant to law that the superintendent of..... (name of the institution filing the petition) will, on the..... day of....., 19....., file a petition before the public health council of West Virginia to be heard at..... (name of place of hearing), asking for an order directing the sterilization of..... (name the inmate), at which time and place any valid reason for not entering such order may be offered.

A copy of said petition is filed in the office of the clerk of the county court of this county.

.....

Superintendent of.....

Any number of cases from the same county may be included in the same notice.

After the notice required by this article shall have been given as herein provided, the public health council, at the time and place named therein, with such reasonable continuances from time to time and from place to place as the council may determine, shall proceed to hear and consider the said petition and the evidence offered in support of and against the same. For every such inmate the council shall appoint a guardian ad litem who must be present at the hearing to defend the rights and interests of such inmate. And the council shall see to it that such inmate shall have leave and opportunity to attend such hearings in person, if desired by him, or by his parent, guardian or committee served with such petition as aforesaid.

The public health council may receive and consider as evidence at such hearing the commitment papers and other records of such inmate in any of the aforesaid state institutions as certified by the superintendent or superintendents thereof, together with such other legal evidence as may be offered by any party to the proceeding. Any member of the council shall have the power to administer oaths to the witnesses at such hearings. Depositions may be taken by any party after due notice as in pending cases and such deposition may be read in evidence if pertinent to the issue: *Provided, however*, That no deposition shall be read against such inmate, except with the consent of his guardian ad litem, unless it be taken in the presence of the guardian ad litem or upon interrogatories agreed on by him. The council shall preserve and keep all record evidence offered at such hearings and shall have all oral evidence heard thereat reduced to writing and preserved and kept with its records. Any party to the proceedings shall have the right to be represented by counsel at such hearings.

The public health council may deny the prayer of said petition, or, if the council shall find that such inmate is insane, idiotic, imbecile, feeble-minded or epileptic and by the laws of heredity is the probable potential parent of socially inadequate offspring likewise afflicted; that such inmate may be sexually sterilized without detriment to his or her general health; and that the welfare of such inmate and of society will be promoted by such sterilization, it may order such superintendent to perform, or cause to be performed by some competent physician or surgeon named in such order, upon such inmate, after not less than thirty days from the date of such order, the operation of vasectomy if such inmate be a male or of salpingectomy if such inmate be a female. [1929, c. 4, §1.]

Sec. 2. Appeal to Circuit Court.—From any such order so entered by the public health council such superintendent or such inmate, or his parent, guardian or committee, shall have, within thirty days after the date of such order, an appeal of right to the circuit court of the county in which said institution is located, which appeal may be taken by giving notice thereof in writing to the secretary of said council and to the other parties to such proceedings. Upon taking such appeal the party taking the same shall forthwith cause a copy of such petition, notice and evidence and such order of said council to be certified by the president or secretary thereof, or in their absence by any other member thereof, to the clerk of such circuit court, who shall file the same and docket the appeal to be heard and determined by such court as soon thereafter as may be practicable. The pendency of such appeal shall stay proceedings under such order until the appeal shall be determined.

Such circuit court upon such appeal may consider the record of the proceedings before the council, including the evidence appearing therein, and such other legal evidence as such court may consider pertinent and proper that may be offered before the court by any party to the appeal. Before hearing such appeal the circuit court shall appoint for such inmate a guardian ad litem who shall be present at the hearing to defend and protect the rights and interests of such inmate. Upon such appeal the circuit court may affirm, revise or reverse, in whole or in part, the orders of the council appealed from, and enter such order as it deems just and right which it shall certify to the council. [1929, c. 4, §2.]

Sec. 3. Appeal to Supreme Court.—Any party to such appeal in the circuit court may within sixty days after the date of such final order therein, apply for an appeal to the supreme court of appeals, which may grant or refuse such appeal and shall have jurisdiction to hear and determine the same upon the record of the trial in the circuit court and to enter such order as it may find that the circuit court should have entered. The pendency of such an appeal in the supreme court of appeals shall operate as a stay of proceedings under any such order of the public health council or of the circuit court until such appeal shall be determined by the supreme court of appeals. [1929, c. 4, §3.]

Sec. 4. Operation.—Whenever any such order shall be made as herein provided by the public health council, or such circuit court, or the supreme court of appeals, ordering such superintendent to perform, or cause to be performed by some competent physician or surgeon named therein, such operation of vasectomy upon any such male inmate or such operation of salpingectomy upon any such female inmate, such superintendent, upon the expiration of any stay of proceedings under any such order, shall be authorized to perform or cause to be performed, and shall perform, or cause to be performed by the physician or surgeon named in such order, such operation pursuant to such order. [1929, c. 4, §4.]

Sec. 5. Exemption from Civil or Criminal Liability.—Neither any such superintendent nor other person legally participating in the execution of the provisions of this article shall be liable either civilly or criminally on account of such participation. [1929, c. 4, §5.]

Sec. 6. Limitations of Article.—Nothing in this article shall be construed to authorize the operation of castration nor the removal of sound organs from the body; but this provision shall not be construed so as to prevent the medical or surgical treatment for sound therapeutic reasons of any person in this State, by a physician or surgeon licensed by this State, in such a way as may incidentally involve the nullification or destruction of the reproductive functions. [1929, c. 4, §6.]

Sec. 7. Fee of Guardian Ad Litem.—Any guardian ad litem appointed by the public health council or by a circuit court pursuant to this article to defend the rights and interests of any inmate of any state institution named herein in proceedings hereunder shall be paid by such institution for his services such fee, not exceeding twenty-five dollars, as may be allowed by the public health council, or by the circuit court in case of appeal. [1929, c. 4, §7.]

ARTICLE 11. STATE WATER COMMISSION

Sec.

Section 1. Definitions of Terms Used in Act; State Water Commission Created.—Terms used in this act are defined as follows: The term "commission" shall mean the state water commission, hereby created, and the term "commissioner" shall mean a member of said commission. The term "water" or "waters" shall mean all waters of any river, stream, watercourse, pond or lake. The term "pollution" shall mean the contaminating or rendering unclean or impure of any water by any act prohibited by section six, article six, chapter twenty of the code of West Virginia, or sections two and three, article nine, chapter sixteen of the code of West Virginia, and "person" shall mean any and all persons natural or artificial, including any municipal or private corporation organized or existing under the laws of this or any other state or country, and as well any firm or association. [1933, c. 6, §1.]

Sec. 2. State Water Commission, How Constituted; Reimbursement for Expenditures; Assistance to by Director of Division of Sanitary Engineering and College of Engineering at West Virginia University.—On and after

the date this act shall go into effect, the commissioner of health, the chairman of the public service commission of West Virginia and the chairman of the West Virginia game and fish commission, and their successors in office, shall constitute the state water commission and shall serve as commissioners thereof; they shall be reimbursed, out of moneys appropriated for such purposes, all sums which they necessarily shall expend in the discharge of their duties as members of such commission. The director of the division of sanitary engineering in the state health department shall perform such services as said commission may request of him in connection with its duties hereunder; he shall be reimbursed, out of moneys appropriated for such purposes, all sums which he necessarily shall expend in the performance of such services. Nothing contained in this act, however, shall be construed to limit or interfere with the power of the state health department to select, employ and direct the direction of the division of sanitary engineering of said department, or any employee thereof who in any way may perform any services for the commission. The college of engineering at West Virginia University, under the direction of the dean thereof, shall, in so far as it can, without interference with its usual and regular activities, aid and assist the commission in the study and research of questions connected with pollution of waters. The dean of the college of engineering shall be reimbursed out of moneys appropriated for such purposes, any and all sums which he necessarily shall expend in the performance of any services he may render to the commission under the provisions hereof. [1933, c. 6, §2.]

Sec. 3. Organization of and Clerical Assistants to Water Commissioner; Records and Meetings of.—Said commission shall elect from its membership a chairman and also elect a secretary, who need not be a member. The commission may employ such stenographic, clerical and other assistance as shall necessarily be required, and whose duties shall be defined by the commission, and whose compensation, to be fixed by the commission, shall be paid out of the state treasury, out of moneys appropriated for such purpose, upon the requisition of said commission. All orders of the said commission shall be entered in a permanently bound record book, properly indexed and the same carefully preserved. Copies of orders entered by the commission, as well as copies of papers or documents filed with it, or the records of proceedings before the commission, shall be attested by the secretary of the commission. Said commission shall meet at such times or places as agreed upon by the commissioners, or upon call of its chairman, to take up any matters proper or necessary to be considered by it. [1933, c. 6, §3.]

Sec. 4. Right of Entry on Premises by Commissioner or Employee.—Any commissioner of any assistant or employee or said commission may, at any reasonable time, enter any premises while engaged in the performance of duty under the provisions of this act. [1933, c. 6, §4.]

Sec. 5. Citation by Commission of Person Causing Water Pollution and Procedure Under.—Any person, causing the pollution of any water, or

alleged to be causing the pollution of any water, may be cited by the commission on its own motion, and shall, upon the petition of any person affected by such pollution, be cited to appear, not less than fifteen nor more than thirty days from the service of such citation, before said commission at a place designated by it, then and there to show cause, if any shall exist, why said commission should not issue an order regulating such pollution, any person affected by such pollution may by petition intervene as a party complainant or respondent in any proceeding instituted by or before such commission. Such citation may be issued by the commission or any member thereof and may be served and returned in the same manner as process in any civil action, or it may be served by sending a copy thereof by registered mail addressed to the person causing, or alleged to be causing, any pollution of any water, at his, their or its usual, or last known, post office address. Any commissioner may issue any subpoena, administer oaths and cause the attendance of witnesses, the production of evidence and testimony in any proceeding before the commission, subject to the same condidions as are provided by the general statutes for the attendance of witnesses and the production of evidence and testimony in civil actions: *Provided, however,* That such commission shall not institute proceedings against any person engaged in the mining of coal and draining mines in compliance with existing law. [1933, c. 6, §5.]

Sec. 6. Finding of Facts After Hearing and Order to Cease Pollution; Procedure for Enforcement of Order; Modification or Revocation by Commission.—After a full hearing the commission shall make its findings of facts, and if it find that any person is polluting any of the water of the state, it shall make and enter an order directing such person to cease such pollution and such person shall have thirty days after notice of the entry of such final order to notify the commission that he will comply therewith or will install, use and operate some practical and reasonably available system or means which will reduce, control or eliminate or reduce to a harmless minimum such pollution, having regard for the rights and interests of all persons concerned, and if such person does not so comply with such order, thereafter the commission may cause the enforcement of any order issued by it to cease such pollution and, as well, all other orders entered by it in matters subject to its jurisdiction, by application to the circuit court of any county wherein the alleged pollution originated or naturally flows, or to any judge of such court if the same shall be in vacation, to enjoin any persons from continuing such pollution, which application shall be brought and the proceedings thereon conducted by the prosecuting attorney of the county wherein such proceedings may be pending, or by special counsel employed by any intervening petitioner. If any person notify the commission that he will comply with such final order by installing, using and operating some practical and available system to reduce, control or eliminate or reduce to a harmless minimum such pollution, and make application for an extension of time, the commission within reasonable limits may grant such extension of time. The person against whom such order shall be issued, shall, before proceeding to install any system or means, submit to the commis-

sion for its consideration and approval, a plan or statement describing the system or means which is proposed to be used or operated; if any person shall desire to make any substantial change in any system or means used or operated, such person shall, before making such change, file with the commission for its consideration and approval a plan or statement describing such proposed change, together with application for the action of the commission thereon and in respect thereto. The commission shall, in any case, enter an order approving, or disapproving any such system or means proposed to be used or operated, or permit or refuse to permit the proposed change in any system or means adopted, used or operated, and shall make and enter all such orders as the commission deems proper and necessary. Any order of the commission may, at any time after at least twenty days' notice in writing to any person affected thereby and any intervening petitioner, and after a hearing thereon, be modified or revoked by an order entered by the commission and the commission shall forthwith, cause an attested copy of any order entered by it to be served upon all persons affected thereby in the same manner as writs or summons in civil actions may be served, or by sending the same by registered mail to such person, or intervener, at his, their or its usual or last known post office address. [1933, c. 6, §6.]

Sec. 7. Petition by Party Aggrieved by Order for Modification or Revocation; Procedure and Hearing On.—Any party feeling aggrieved by the entry of a final order by the commission, affecting him or it, may present a petition in writing to the circuit court of the county wherein the pollution originated or naturally flows, or to the judge of such court in vacation, within thirty days after the entry of such order, praying that such final order may be set aside or modified. The applicant shall deliver a copy of such petition to the secretary of the commission before presenting the same to the court or judge. The court or judge shall fix a time for the hearing on the application, but such hearing, unless by agreement by the parties, shall not be held sooner than five days after its presentation; and notice of the time and place of such hearing shall be forthwith delivered to the secretary of the commission so that the commission may be represented at such hearing by one or more of its members or by counsel. For such hearing the commission shall file with the clerk of said court all papers, documents, evidence and records or certified copies thereof as were before the commission at the hearing or investigation resulting in the entry of the order from which the petitioner appeals. The commission shall file with the court before the day fixed for the final hearing a written statement of its reasons for the entry of such order, and after arguments by counsel the court shall by order entered of record, make a finding as to whether the act complained of is a statutory pollution, and certify the same back to the commission which shall make such changes in its orders as will be necessary to make it comply with the law, as found by the court, governing the matter. The supreme court of appeals of the state shall have jurisdiction to review the order of the circuit court upon application of either party or any intervener. The prosecuting attorney of the county wherein the proceedings in the

circuit court are had shall represent the commission, and the attorney general of the state shall represent it in any proceedings in the supreme court of appeals, and any intervener may be represented by counsel specially employed. [1933, c. 6, §7.]

Sec. 8. Study of Water Pollution and Research and Experiments by Commission; Cooperation with Public or Private Experimental Agencies.—The commission shall study questions arising in connection with pollution of waters in the state and make reports and recommendations in respect thereto; and in cooperation with the college of engineering at West Virginia University, make research, investigation and scientific experiments in efforts to discover economical and practical methods for elimination, disposal and treatment of industrial wastes and the control and correction of stream pollution; and to this end the commission may cooperate with any public or private experimental agency received therefrom, on behalf of the state, and for deposit in its treasury, any money which such agency may contribute as its part of the expense thereof. [1933, c. 6, §8.]

Sec. 9. Acts not Repealed or Modified by this Act.—Nothing in this act contained shall be so interpreted or construed as to in any way repeal, supersede or modify section six, article six, chapter twenty of the code of West Virginia, and section seven, article one, and sections two and three, article nine, chapter sixteen of the code of West Virginia; all other acts and parts of acts inconsistent herewith are hereby repealed. [1933, c. 6, §9.]

Sec. 10. Provisions of Act Separable and Several.—The various provisions of this act shall be construed as separable and several, and should any of the provisions or parts thereof be construed or held to be unconstitutional, or for any other reason invalid, the remaining provisions of this act shall not be thereby affected. [1933, c. 6, §10.]

Section 11. Compliance with Final Order of Commission; Methods of Raising Funds by a Municipality.—Any person, corporation, municipal corporation, partnership or legal entity, upon whom a final order of the state water commission as herein provided is served, which order shall not have been set aside by a court of competent jurisdiction upon complaint filed as herein provided or upon whom a final order is served as modified to conform with a judgment of such court directing modification, shall, within thirty days after receipt of such order, or after judgment affirming such order is entered, take steps for the acquisition or construction of such plants, machinery or works, or for such repair, alteration or extension of existing plants, machinery or works, as may be necessary for the disposition or treatment of the organic or inorganic matter which is causing or contributing to, or is about to cause or contribute to, a polluted condition of such water or waters, or shall take such other steps as may be necessary to comply with said final order of the

state water commission. If the offender be a municipal corporation, the cost of acquisition, construction, repair, alteration or extension of the necessary plant, machinery or works, or taking such other steps as may be necessary to comply with said order, shall be paid out of funds on hand available for such purpose, or out of the general funds of such municipal corporation, not otherwise appropriated; or if there be not sufficient funds on hand or unappropriated, then the necessary funds shall be raised by issuance of bonds, such bond issue to be subject to the approval of the state sinking fund commission and the attorney general of the state of West Virginia. [1937, c. 130.]

If the estimated cost of the steps necessary to be taken by such municipal corporation to comply with such final order of the state water commission, is such that the bond issue necessary to finance such project would not raise the total outstanding bonded indebtedness of such municipal corporation, in excess of the constitutional limit imposed upon such indebtedness by the constitution of this state, then and in that event the necessary bonds may be issued as a direct obligation of such municipal corporation, and retired by a general tax levy to be levied against all property within the limit of such municipal corporation listed and assessed for taxation. If the amount of such bonds necessary to be issued would raise the total outstanding bonded indebtedness of such municipal corporation above said constitutional limitation on such indebtedness, or if such municipal corporation by its governing body shall determine against the issuance of direct obligation bonds, then such municipal corporation shall issue revenue bonds and provide for the retirement thereof in the same manner and subject to the same conditions as provided for the issuance and retirement of bonds in chapter twenty-five, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, entitled "An act to authorize municipal corporations and/or sanitary districts to construct, own, equip, operate, maintain and approve works for the collection and/or treatment, purification and disposal of sewerage; to authorize charges against owners of premises for the use of such works and to provide for the collection of same; to authorize municipal corporations and/or sanitary districts to issue revenue bonds payable solely from the revenues of such works and to make such bonds exempt from taxation; to authorize contracts for the use of such works by other municipal corporations and political subdivisions, and charges against owners of premises therein served thereby and a lien against such premises": *Provided, however,* That the provisions of section six of the above-mentioned act, allowing objections to be filed with the governing body, and providing that a written protest of thirty per cent or more of the owners of real estate shall require a four-fifths vote of the governing body for issuance of said revenue bonds, shall not apply to bond issues proposed by any municipal corporation to comply with the final order issued by the state water commission, under the authority of this act, and such objections or submission of written protest shall not be authorized, nor shall the same, if had, operate to justify or excuse failure to comply with such final order of the state water commission.

The funds made available by the issuance of either direct obligation bonds or revenue bonds as herein provided, shall constitute a "sanitary fund", and shall be used for no other purpose than for carrying out such order or orders of the state water commission; no public money so raised shall be expended by any municipal corporation for any purpose enumerated in this act, unless such expenditure and the amount thereof has been approved by the state water commission.

Sec. 12. How Construction and Operation of Municipal Plants, Etc., Governed.—The construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works by any municipal corporation, in compliance with the final order of the state water commission, as herein provided, other than the financing thereof, and the rights, powers and duties, of such municipal corporation and the respective officers and departments thereof, whether the same shall be financed by the issuance of revenue or direct obligation bonds, shall be governed by the provisions of said chapter twenty-five, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three. [1937, c. 130.]

Sec. 13. When Proceedings to Comply Must Begin; Penalty.—It shall be the duty of each individual offender and of each member of a partnership, and of each member of the governing body of a municipal corporation, and of each member of the board of directors or other governing body of a private corporation, association or other legal entity, against whom a final order has been issued, as herein provided, to begin appropriate action or proceedings to comply with such order, within thirty days from the receipt thereof, if no action has been commenced in the circuit court of the county where such violation is alleged to exist to set aside or vacate such order, as provided in this act, or, in case such action has been brought, within thirty days from the date of judgment affirming such order, or from the date of the receipt of such order, as modified in conformity with the judgment of such court. Failure of the governing body in the case of a municipal corporation, or of the board of directors or any other governing body of any private corporation, association or other legal entity, to provide for the financing and construction of such works as may be necessary to carry out said order by appropriate ordinance or resolution, shall constitute failure to begin appropriate action or proceedings to comply with such order, as above provided. Any individual offender, or member of a partnership, or any officer or member of the board of directors of a private corporation, association, or other legal entity, or any mayor, councilman or member of sanitary board as provided for in said chapter twenty-five, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, of any municipal corporation, who fails or refuses to discharge any duty imposed upon him by this act or by such final order of the state water commission, or any duty imposed upon him by reason of any ordinance of the governing body of any municipal corporation, or resolution of the board of directors or other governing body of any private corporation, association or other legal entity, pursuant to this act or to such final order,

shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum of not less than twenty-five dollars, nor more than one hundred dollars, to which may be added imprisonment in the county jail for any period not to exceed ninety days. Each day that such failure or refusal to discharge such duties continues, shall be and constitute a separate and addition o§ense for the purposes of this section. [1937, c. 130.]

Sec. 14. Extension of Time for Compliance; Penalty for Noncompliance.—The state water commission shall have the authority, in its discretion, to extend the time fixed in any final order issued by it, within which any offender is ordered to correct or abate a condition of pollution of any water or waters, upon written petition filed with such commission not less than thirty days prior to the time fixed in such order, when it shall appear that a good faith effort to comply with said order is being made, and that it shall be impossible for such offender to complete the project of work undertaken within the time so fixed. Any person, corporation, municipal corporation, partnership, association or other legal entity, who shall fair or refuse to correct or abate such polluted condition in compliance with such order within the time fixed or within the time additionally granted as herein provided, shall be subject to a penalty of one hundred dollars for each day that such polluted condition continues to exist after the time so fixed, or additionally granted, which may be recovered in a civil suit brought in the name of the state of West Virginia and which penalty shall be in addition to the penalty provided in section thirteen of this act. It shall be the duty of the attorney general to prosecute all actions for penalties under this section, and all penalties so recovered shall be paid into the common school fund of the state. The penalties accruing for any two or more days under the provisions of this section may be recovered in one complaint and may be joined in one paragraph of said complaint. [1937, c. 130.]

Sec. 15. Construction of Act; Inconsistent Acts Repealed.—Being for the public health, safety and welfare, this act shall be liberally construed to effectuate the purposes thereof, and all existing laws or parts of laws of this state inconsistent with this act are hereby repealed. [1937, c. 130.]

ARTICLE 14—BARBERING AND BEAUTY CULTURE

Sec.

Section 1. Committee of Barbers and Beauticians Created as Division; Certificate of Registration.—There is hereby created as a division of the state department of public health, and under its jurisdiction, the State Committee of Barbers and Beauticians. The word "committee," as used hereafter in this bill, shall refer to and shall mean the state committee of barbers and beauticians hereby created.

It shall be unlawful for any person to practice, or offer to practice, barbering or beauty culture in this state without first obtaining a certificate of registration for such purpose from the committee. All applicants shall be required to submit to an examination, both physical and practical, as hereinafter provided. [1933, 2d Ex. Sess., c. 82, §1.]

Section 2. Barbering and Beauty Culture Defined. For the purpose of this article "barbering" shall mean any one or combination of the following acts, when done on the human body, and not for the treatment of disease, to-wit: Shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair, or applying tonics thereto; applications, treatment or massages of the face, neck, or scalp with oils, creams, lotions, antiseptics, cosmetics, powders, clays or other preparations; and when the same are done to encourage the use or sale of articles of trade, or for pay, reward or other compensation, whether to be received directly or indirectly.

"Beauty culture" shall mean any one or combination of the following acts, when done on the human body, and not for the treatment of disease, to-wit: The care, preservation and beautification of the hands and nails, (commonly called manicuring); the cleansing, curling, waving, permanent waving, straightening, arranging, dressing, bleaching, tinting, coloring and shaping the hair, including such cutting of the hair as is necessary for the purposes mentioned in this paragraph; and the application to, or treatment and massage of the scalp, face, neck, arms, hands or upper part of the body with oils, creams, lotions, powders, clays, cosmetics, antiseptic, or other preparations; and when the same are done to encourage the use or sale of articles of trade, or for pay, reward or other compensation, whether to be received directly or indirectly.

The performance of any of the acts enumerated in this section shall not be deemed barbering or beauty culture when done by duly licensed physicians, surgeons, nurses or morticians, in the proper discharge of their professional duties. [1933, 2d. Ex. Sess., c. 82, §2; 1939 c. 30, §2.]

Section 3. Committee; Chairman to Approve and Enforce Regulations; Secretary; Expenses of Members; Powers and Duties of Committee; Inspectors.—The committee shall consist of the commissioner of health, ex officio, and four other members to be appointed by the Governor, by and with the consent of the Senate, subject to removal by the Governor at his will and pleasure. Of the four members thus appointed, one shall be an employing barber, one an employee barber, one an employing beautician, and one an employee beautician. One of the four so appointed shall be a member of the colored race. Each member of the committee so appointed shall have been engaged within this state in the practice of barbering or beauty culture, as the case may be, for a period of eight years immediately prior to his appointment, and not more than two of the four members of the committee so appointed shall belong to the same political party.

Within sixty days after this act becomes effective, the Governor shall appoint one member to said committee for a term of four years, one member for a term of three years, one member for a term of two years, and one member for a term of one year, and on or before the expiration of the terms of appointment as hereinabove provided, and each year thereafter,

the Governor shall appoint one member of the committee to serve for four years. Any member of the committee so appointed shall be eligible for reappointment.

The commissioner of health shall be ex officio chairman of the committee, and the enforcement of all rules and regulations promulgated by the committee pertaining to sanitary conditions of barber and beauty shops and pertaining to the registration and qualifications of barbers and beauticians shall be under his supervision and direction; no order, rule, or regulation promulgated by the committee shall be in force and effect until approved by the commissioner of health. The said committee shall designate one of its members, or some other person, to act as secretary of the committee, and it shall be the duty of said secretary to perform such duties as may be prescribed by the committee.

Each member of the committee, except the chairman, shall receive as compensation a per diem of ten dollars for each day said member is actually in attendance upon the session of the committee, plus an allowance for expenses which shall not exceed four dollars for each day of such attendance, but such compensation for each member, exclusive of the allowance for expenses, shall not exceed the sum of three hundred dollars in any calendar year.

The committee shall examine all applicants for certificates of registration and shall issue said certificates to those entitled thereto; collect examination and registration fees; promulgate rules and regulations governing the operation of barber shops, beauty shops, and schools of barbering and beauty culture, including the prescribing of curriculums and standards of instructions for such schools; promulgate rules and regulations for the physical examination of barbers, beauticians, junior barbers and beauticians, and students, and fix the standard form of report of such examinations; establish and enforce sanitary regulations in barber shops, beauty shops, and schools of barbering and beauty culture; enforce all such rules and regulations as are herein authorized; and do all other things necessary to effectuate the purpose of this act in the interest and protection of public health.

The commissioner of health shall appoint not to exceed six inspectors, who shall be registered barbers and beauticians of this state, as herein provided, and it shall be their duty to make frequent inspections of all barber and beauty shops, schools of barbering and beauty culture in this state, and report all violations to the commissioner of health. The salaries and allowances for expenses of such inspectors shall be that fixed and allowed by the commissioner of health and approved by the director of the budget, pursuant to said director's power to classify purposes and employments in the State Government and its agencies. [1933, 2d. Ex. Sess., c. 82, §3; 1939, c. 30, §3.]

Section 4. General Regulations; Revocation of Certificate for Violations; Collections and Expenditures. Every general regulation adopted by the committee shall state the day on which it takes effect, and a copy thereof, duly signed by the commissioner of health, shall be filed in the office of the secretary of state, and shall be published in such manner as the committee may determine. For any violation of any regulation so promulgated, when said regulation is reasonable and not inconsistent with law, the committee may cancel and revoke the certificate of registration issued such violator and/or may refuse to renew or reissue the same.

The expenditures of the committee shall not in any year exceed the amount of fees collected by the committee for that year. All money collected and received by the committee under the provisions of this act shall belong to the state and the committee or its chairman shall immediately turn same into the state treasury and record shall be made thereof; and the expenditures herein provided for, when authorized by the committee shall be paid out by warrant on the treasurer of the state in form and manner provided by law. [1933, 2d. Ex. Sess., c. 82, §4; 1939, c. 30, §4.]

Section 5. Qualifications of Applicants; Fee; Examination; Registration Certificate and Fee.—An applicant for registration as a barber or beautician shall present satisfactory evidence that he or she is at least eighteen years of age, of good moral character and temperate habits, has completed at least the eighth grade of grammar school, or the equivalent thereof, and has been graduated from a school of barbering or beauty culture approved by the state committee of barbers and beauticians, and shall transmit with his application an examination fee of twenty dollars. The examination shall be of such character as to determine the qualifications and fitness of the applicant to practice barbering or beauty culture as defined by this article, and shall cover such subjects germane to the inquiry as the committee may deem proper. If the applicant successfully passes such examination and is otherwise duly qualified, as required by this section, and presents the proper certificate of health, the committee shall register the applicant as a duly qualified junior barber or beautician, for which permit the fee shall be two dollars and fifty cents. Upon proof that the holder of such a certificate has served as a junior barber or beautician for a period of not less than twelve months from the original date of such certificate, accompanied by a certificate of health from a duly licensed physician, the committee shall issue to the applicant a certificate of registration authorizing the applicant to practice barbering or beauty culture in this state. Any person who is able to furnish satisfactory proof that he has practiced barbering or beauty culture for at least twelve months prior to examination may be registered as a duly qualified barber or beautician immediately after he has passed the examination, without serving the specified twelve-month period as a junior barber or beautician. The committee shall charge for every certificate of registration, or renewal thereof, issued by it, a fee of five dollars. [1933, 2d. Ex. Sess., c. 82, §5; 1939, c. 30, §5.]

Section 6. Renewal of Registration; Fee; Blood Test.—Every registered barber or beautician who desires to continue in active practice or service shall, annually on or before the first day of January, renew his certificate of registration and pay an annual renewal fee of five dollars. An expired certificate of registration may be restored only upon the payment of one annual renewal fee. Every applicant for renewal, or restoration, of his or her certificate of registration shall submit to the Wasserman, or other recognized blood test and shall submit the report thereon to the committee, together with a certificate of health from a duly licensed physician. [1933, 2d. Ex. Sess., c. 82, §6; 1939, c. 30, §6.]

Section 7. Student's Permit; Qualification; Fee.—All students, before entering upon their studies in approved schools of barbering or beauty culture in this state shall apply for and receive a student's permit from the committee. The application shall be upon forms provided by the committee and shall include a health certificate from a duly licensed physician. An applicant for registration as a student shall present satisfactory evidence that he or she is at least seventeen years of age, of good moral character and temperate habits, and has completed at least the eighth grade of grammar school or the equivalent thereof. If the applicant is otherwise qualified and upon payment of a fee of two dollars and fifty cents, the committee shall register the applicant as a student barber or beautician and shall issue the applicant a certificate as such, which certificate shall be good during the prescribed period of study for such student. A student may perform any or all acts constituting barbering or beauty culture in a school of barbering or beauty culture under the immediate supervision of a registered instructor, but not otherwise. [1933, 2d. Ex. Sess., c. 82, §7; 1939, c. 30, §7.]

Section 8. Display of Certificate of Registration.—Every person practicing barbering or beauty culture and every student and junior barber and beautician shall display his certificate of registration in a conspicuous place in the shop wherein he practices or is employed and whenever required shall exhibit such certificate to the state committee of barbers and beauticians or its authorized representative. [1933, 2d. Ex. Sess., c. 82, §8; 1939, c. 30, §8.]

Section 9. Shops To Be Managed By Registered Barbers and Beauticians, Number of Junior Barbers or Beauticians Permitted; Restrictions on Buildings or Rooms Used as Shops and Businesses In; Advertising of Prices Prohibited.—Every barber or beauty shop in this state shall be operated under the supervision and management of a barber or beautician who is registered as such in this state. Each barber or beauty shop in this state may employ at least one junior barber or beautician therein. However, in shops regularly employing more than three registered barbers or beauticians only one such junior barber or beautician may be employed for every three such registered barbers or beauticians, but in no event can more than three such junior barbers or beauticians be employed in any one barber or beauty

shop. No business or trade other than that of barbering shall be conducted in a barber shop and no business or trade other than that of beauty culture shall be conducted in a beauty shop, except the display and/or sale of commodities or other articles used in connection with barbering or beauty culture, and no such barber or beauty shop shall be operated in a store, dwelling house, or other building or space used for any purpose other than barbering or beauty culture unless such barber or beauty shop is separated by stationary partitions extending from floor to ceiling: *Provided*, That nothing herein contained shall be construed as prohibiting a barber shop from carrying on the business of shoe shinning or manicuring or both shoe shining and manicuring. A suitable sign shall be displayed at the main entrance of all barber and beauty shops, plainly indicating the business conducted therein; *Provided, however*, that no sign shall be displayed outside any barber or beauty shop or inside the same, so as to be clearly visible from the outside and for the ostensible purpose of attracting trade, which in any way advertises the prices to be charged in such barber or beauty shop for services to be therein performed. [1933, 2d. Ex. Sess., c. 82, §9; 1939, c. 30, §9.]

Section 10. Schools of Barbering or Beauty Culture.—No person, firm or corporation, whether organized for profit or not, shall own or operate a school of barbering or beauty culture in this state without first obtaining a license so to do from the committee, and no such license shall be issued unless the person or persons teaching or instructing therein have a high school education or equivalent thereto, and have for a period of not less than five years prior to such application been actively engaged as duly qualified barbers or beauticians, and are registered as such within this state. All applicants for license to operate a school of barbering or beauty culture shall submit to an examination by the committee relative to whether or not such proposed school is properly fitted and equipped to teach barbering or beauty culture. After passing said examination a license shall be issued by the committee to such applicant to open such school. All instructors in any such school of barbering or beauty culture shall first qualify as such by passing an examination submitted by the committee relative to their fitness and ability to instruct as such.

The license fee for each school of barbering and for each school of beauty culture shall be twenty-five dollars annually, to be paid in such manner as the committee may prescribe, on or before January first of each year. The license shall be prominently displayed in the school, and a suitable sign shall be kept on the front of the school which shall plainly indicate that a school of barbering or beauty culture is operated therein. [1933, 2d. Ex. Sess., c. 82, §10; 1939, c. 30, §10.]

Section 11. Health Certificates Required Before Certificate of Registration Issued or Renewed.—No person shall practice barbering or beauty culture or serve as a student or junior barber or beautician in this state while having an infectious, contagious or communicable disease. No

person shall be registered as a barber, beautician, student, or junior barber or beautician until he or she shall have obtained a certificate of health from a licensed physician under article three of this chapter certifying said person to be free of all infectious, contagious and communicable diseases; which certificate shall be filed with the state committee of barbers and beauticians within ten days after the examination of the person is made by the physician, and photograph of the applicant must accompany the application with such certificate. The certificate shall be in such form as the committee may prescribe. A like certificate must be filed with the committee before any certificate is renewed, and the examination must have been within thirty days prior to the beginning of the renewal period. The committee shall be impowered to compel any registered barber, beautician, student, or junior barber or beautician, to submit to a physical examination and file a certificate of health at any time. [1933, 2d. Ex. Sess., c. 82, §11; 1939, c. 30, §11.]

Section 12. Requirements to Operate Shops and Schools; Sanitary Rules and Regulations.—It shall be unlawful for any person, firm or corporation to own or operate a beauty or barber shop, or a school of beauty culture or barbering, or to act as a barber or beautician, unless;

(a) Such beauty shop, barber shop, or school of beauty culture or barbering shall before opening its place of business to the public, have been approved by the committee as having met all the requirements and qualifications for such places of business as are required by this article and for this purpose, it shall be the duty of the owner or operator of each such beauty shop, barber shop, or school of beauty culture or barbering to notify the committee, in writing, at least ten days before the proposed opening date of such shop or school, whereupon it shall become the duty of the committee, through the inspectors herein provided for, to inspect such shops or schools, and if found to meet the requirement of this article respecting the same, to grant to it a certificate permitting it to do business as such. If, however, after the lapse of ten days after the giving of such notice of opening to the committee, an inspection is not made or such certificate of opening has not been granted or refused, the owner or operator of such shop or school may open provisionally subject to later acquirement of such certificate and to all other provisions, rules and regulations provided for in this article;

(b) All such shops and schools, and bathrooms, toilets and adjoining rooms used in connection therewith, are kept clean, sanitary, well lighted and ventilated at all times. The use of chunk alum, powder puffs and styptic pencils in any such shop or school is prohibited;

(c) Each barber, beautician, instructor, junior barber and beautician, and student, shall thoroughly cleanse his or her hands with soap and water immediately before serving any patron;

(d) Each patron is served with clean, freshly laundered linen which is kept in a closed cabinet used for that purpose alone. All linens, im-

mediately after being used, shall be placed in a receptacle used for that purpose alone.

The committee shall prescribe such other rules and regulations in regard to sanitation and cleanliness in such shops and schools as it may deem proper and necessary and shall have power to enforce compliance therewith. Such rules and regulations shall be kept posted in a conspicuous place in each shop or school. [1933, 2d. Ex. Sess., c. 82, §12; 1939, c. 30, §12.]

Section 13. Grounds for Cancellation, or Refusal to Issue or Renew Certificate of Registration. The committee may refuse to issue a certificate of registration to any applicant, or may refuse to renew, or may suspend or revoke the same for any holder thereof, for any of the following causes: (1) conviction of the commission of a felony, as shown by a certified copy of the record of the court of conviction; (2) obtaining or attempting to obtain a certificate of registration to practice barbering and/or beauty culture in this state by false pretenses, fraudulent misrepresentation, or bribery by the use of money or other consideration; (3) gross incompetency; (4) the continued practice of barbering and/or beauty culture by a person knowing himself or herself to be afflicted with a contagious or infectious disease; (5) the use knowingly of any false or deceptive statements in advertising; (6) habitual drunkenness or habitual addiction to the use of morphine, cacaine or other habit-forming drugs. [1933, 2d. Ex. Sess., c. 82, §13.]

Section 14. Penalties for Violation.—Any violation of the provisions of this article or of the rules and regulations of the committee, when promulgated by it as set out in section four of this article, shall constitute a misdemeanor, punishable, upon conviction, by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment. Justices of the peace shall have concurrent jurisdiction with circuit and criminal courts for the enforcement of the provisions of this article and the rules and regulations promulgated by the committee. [1933, 2d. Ex. Sess., c. 82, §14; 1939, c. 30, §14.]

Section 15. Provisions of Article One, Chapter Thirty, Code, to Apply to Committee.—Unless otherwise specially provided herein, the provisions of article one, chapter thirty of the code of West Virginia shall apply to the state committee of barbers and beauticians. [1933, 2d. Ex. Sess., c. 82, §15.]

Section 16. Appropriation from Treasury from Collections for Authorized Expenditures; Surplus to Credit of Department of Health.—There is hereby appropriated out of the treasury, payable only out of the collections provided for by this article, such moneys as are authorized by this article to be spent to carry out the provisions of this article. All surplus funds from the collections provided in this article accruing within any fiscal year

shall, at the close of the fiscal year, be, and the same are hereby transferred to the credit of the funds appropriated for the state department of health, and shall become available in the manner provided by law for expenditure by that department. [1933, 2d. Ex. Sess., c. 82, §16.]

Section 17. Provisions of Act Separable; Repeal of Laws.—The various provisions of this act shall be construed as separable and several, and should any of the provisions or parts thereof be construed or held to be unconstitutional, or for any other reason invalid the remaining provisions of this act shall not be thereby affected. All acts and parts of acts in conflict with the provisions of this act, or any part thereof, are hereby repealed. Any ordinances of any municipalities in this state now in effect and having for their purpose the regulation of the practice of barbering or beauty culture, which are in conflict with the provisions of this act, or any part thereof, shall be null and void and of no effect on and after the date this act goes into effect. [1933, 2d. Ex. Sess., c. 82, §17.]

Chapter 30. Professions and Occupations

ARTICLE 3. PHYSICIANS AND SURGEONS

Sec.

1. Evidence of qualification to practice and license required.
2. Who deemed practitioner; limitations of article.
3. Examination by state public health council.
4. Who permitted to practice medicine and surgery in this State; licensing of licensed practitioners from other states; permits to practice in prescribed areas.
5. Examinations; certificates; adherents of particular schools or theories of medicine.
6. Refusal to issue, suspension or revocation of license.
7. Fees.
8. Division of fees by physicians or surgeons; penalties; revocation of certificate.
9. Practicing without license; other offenses; penalties.
10. False diploma of graduation from medical school; penalty.

Section 1. Evidence of Qualification to Practice and License Required.—Any person practicing or offering to practice medicine and surgery in this State shall be required to submit evidence that he is qualified so to practice, and shall be licensed as hereinafter provided.

Sec. 2. Who Deemed Practitioner; Limitations of Article.—The term "practice medicine and surgery," as used in this article, shall be construed to mean the treatment of any human ailment or infirmity by any method. To open an office for such purpose or to announce to the public in any way a readiness to treat the sick or afflicted shall be deemed to engage in the practice of medicine and surgery within the meaning of this article: *Provided, however,* That the provisions of this article, with the exception of sections eight and ten, shall not apply to dentists, dental hygienists, nurses, optometrists, chiropodists, osteopathic physicians and surgeons, midwives, or chiropractors, regularly licensed or registered as such under the provisions of this chapter applicable to such professions and occupations, in the practice of their respective professions and occupations; nor to physicians or surgeons living in other states and duly qualified to practice medicine therein, who shall be called in consultation into this State by a physician or surgeon legally entitled to practice medicine and surgery in this State; nor to commissioned officers of the United States army, navy or marine hospital service, when in the actual discharge of their duties as such. [1881, c. 60, §12; 1882, c. 93, §§9, 12; 1889, c. 22, §9; 1895, c. 7, §9a; 1907, c. 66, §9; 1915, c. 11, §12; 1921, c. 136, §1; Code 1923, c. 150, §§8a, 9; 1923, c. 39, §9; 1929, c. 75, §9.]

Sec. 3. Examination by State Public Health Council.—The state public health council shall, in addition to its other duties, examine all applicants for license to practice medicine and surgery in this State, and issue certificates of license to all applicants who are legally entitled to receive the same; and said certificates shall be signed by the president of the council and by the commissioner of health as secretary thereof. [1915, c. 11, §12; Code 1923, c. 150, §8a.]

Sec. 4. Who Permitted to Practice Medicine and Surgery in This State; Licensing of Licensed Practitioners From Other States; Permits to Practice in Prescribed Areas.—The following persons and no others shall hereafter be permitted to practice medicine and surgery in this State: (a) All such persons as shall be legally entitled to practice medicine and surgery in this State at the time of the adoption of this Code; (b) all such persons as shall be graduates of class "A" medical schools, as classified by the council on education of the American Medical Association, the American Association of Medical Colleges, the American Institute of Homeopathy and the National Eclectic Medical Association, and then only from such schools, when so classified, as require, as a condition to entrance upon the study of medicine, at least two years of academic work of collegiate grade in a standard college of arts and sciences of equal rank with the college of arts and sciences in the West Virginia University, and who shall pass an examination before the state public health council and shall receive a certificate therefrom as hereinafter provided: *Provided, however,* That the public health council, or a majority of them, may accept in lieu of an examination, the certificate of the national board of medical examiners, or the certificate of license to practice medicine and surgery legally granted by the state board of registration or examination or licensing board of another state, territory or any foreign country, whose standard of qualification for the practice of medicine and surgery is equivalent to that of this State, and grant to such applicant a certificate of license to practice medicine and surgery in this State, provided such state, territory or foreign country accords like privileges to licentiates of this State: *Provided further,* That whenever in the judgment of the public health council a condition exists in which medical service may be required, the council is authorized to grant permits for the practice of medicine to qualified physicians in prescribed areas, and such permits shall be subject to revocation when the agreement, under which they were issued, has been violated. [1881, c. 60, §9; 1882, c. 93, §9; 1889, c. 22, §9; 1895, c. 7, §9; 1907, c. 66, §9; 1921, c. 136, §1; Code 1923, c. 150, §9; 1923, c. 39, §9; 1929, c. 75, §§9, 9a.]

Sec. 5. Examinations; Certificates; Adherents of Particular Schools or Theories of Medicine.—The public health council shall, at such times as a majority of them deem proper, hold examinations for the licensing of applicants for license to practice medicine and surgery in this State. No fewer than two examinations shall be held during the year, and at such points in the State as shall be most convenient for those presenting themselves for examination, or for the public health council. At such examination written and oral questions shall be submitted to the appli-

cants, covering all the essential branches of the sciences of medicine and surgery, and the examination shall be a thorough and decisive test of the knowledge and ability of the applicant. The president and secretary of the public health council shall issue certificates to all who successfully pass the said examination and to all whose certificates said public health council, or a majority of them, shall accept in lieu of an examination, as hereinbefore provided. Such certificates shall be deemed licenses to practice medicine and surgery in all their branches in this State. The public health council shall give reasonable notice of the time and place of holding such examinations in at least three newspapers of general circulation in this State, and all such persons wishing to present themselves for examination shall notify the secretary and comply with the rules of the public health council. No applicant for license to practice medicine and surgery in this State shall be rejected because of his adherence to any particular school or theory of medicine. The public health council shall call to their assistance in the examination of any applicant who professes the homeopathic or eclectic school of medicine, a homeopathic or eclectic physician entitled to practice medicine in this State under this article, and such homeopathic or eclectic physician so called to the assistance of the public health council shall be allowed the same per diem and actual expenses incurred as are allowed the regular members of the public health council. [1881, c. 60, §§9, 12; 1882, c. 93, §§9, 12; 1889, c. 22, §9; 1895, c. 7, §§9, 9a; 1907, c. 66, §9; 1921, c. 136, §1; Code 1923, c. 150, §9; 1923, c. 39, §9; 1929, c. 75, §9.]

Sec. 6. Refusal to Issue, Suspension or Revocation of License.—The public health council may refuse to grant a certificate of license to a person guilty of felony or gross immorality or addicted to drunkenness or the habitual use of narcotic drugs, and may suspend or revoke a certificate for like cause, or for malpractice, or for fraud in procuring the certificate; but no such refusal, suspension or revocation shall be ordered by reason of the individual belonging to or practicing in any particular school or system of medicine. [1881, c. 60, §10; 1882, c. 93, §10; 1887, c. 64, §10; Code 1923, c. 150, §10.]

Sec. 7. Fees.—The public health council shall be entitled to charge and collect the following fees, in addition to those provided in article one of this chapter: For granting to a licensed physician or surgeon from another state, territory or foreign country, a license to practice medicine in this State, under the provisions of section four of this article, one hundred dollars; for a reciprocal indorsement, ten dollars. [1881, c. 60, §11; 1882, c. 93, §11; 1907, c. 66, §11; 1917, c. 54, §11; Code 1923, c. 150, §11; 1927, c. 34.]

Sec. 8. Division of Fees by Physicians or Surgeons; Penalties; Revocation of Certificate.—It shall be unlawful for any physician or surgeon in this State, directly or indirectly, to divide, or agree to divide, any fee or compensation of any sort whatsoever, charged for a surgical operation or for medical services, with any other physician, surgeon or other person who brings, sends or recommends a patient to such surgeon or physician for treatment, without the express knowledge and consent, previously had, of the person paying such fee or compensation, or against whom

the same may be charged. It shall be unlawful for any physician, surgeon or other person residing in this State to accept any fee or other compensation from any other surgeon, physician or other person not residing in this State for taking, sending or recommending a patient for treatment to such nonresident physician, surgeon or other person. Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than one thousand dollars for each offense, and in the discretion of the court, may be imprisoned in the county jail not to exceed twelve months in addition to said fine. If any person shall be convicted of a second offense under the provisions of this section, the state public health council shall revoke the certificate licensing such person to practice medicine and surgery in this State. [1917, c. 52, §§1-4; Code 1923, c. 150, §12.]

Sec. 9. Practicing Without License; Other Offenses; Penalties.— Any person who shall practice or attempt to practice medicine and surgery in this State without first having been licensed for that purpose as herein provided, or who shall violate any of the provisions of this article for which no specific penalty is provided herein, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined for every such offense not less than fifty nor more than five hundred dollars, or imprisoned in the county jail not less than one nor more than twelve months, or both fined and and imprisoned, in the discretion of the court. And if any person shall file or attempt to file, as his own, the diploma or certificate of another, or shall file or attempt to file a false or forged affidavit of his identity, or shall willfully swear falsely to any question which may be propounded to him on examination, as herein provided for, or to any affidavit required to be made or filed by him, he shall, upon conviction thereof, be confined in the penitentiary not less than one nor more than three years, or imprisoned in the county jail not less than six nor more than twelve months, and fined not less than one hundred nor more than five hundred dollars, at the discretion of the court. [1881, c. 60, §15; 1882, c. 93, §15; Code 1923, c. 150, §15.]

Sec. 10. False Diploma of Graduation From Medical School; Penalty.— Whoever shall make, issue or publish for the purpose of sale, barter or gift, a certificate, diploma or other writing or document falsely representing the holder or receiver thereof to be a graduate of any particular medical school, college or educational institution of medicine, and entitled to the powers, privileges or degrees thereby pretended to be conferred, or whoever shall sell, dispose of, or offer to sell or dispose of, such diploma, certificate, writing or document containing such false representation, or whoever shall use his name, or permit it to be used, as a subscriber to such false and fictitious diploma, certificate, writing or document, or shall engage in the practice of medicine or surgery under and by virtue of such fraudulent diploma, certificate, writing or document, shall be guilty of a felony, and, upon conviction thereof, shall be punished by confinement in the state penitentiary for a period of not less than one year, nor more than three years, and in addition thereto shall be subject to a fine of not less than one hundred nor more than one thousand dollars. [1925, c. 24, §1.]

ARTICLE 11. CHIROPODISTS

Sec.

Section 1. Chiropody; License Required. — It shall be unlawful for any person to practice or offer to practice in this State the branch of medicine known as chiropody, as hereinafter defined, unless duly licensed so to do by the public health council of this State, after examination conducted by such council or a committee thereof, under rules and regulations prepared and promulgated by it, except as hereinafter provided. [1917, c. 41, §1; Code 1923, c. 150, §30(1).]

Sec. 2. Definition of Chiropody; Use of Title "Doctor." — For the purpose of this article "chiropody" shall mean the medical, mechanical or surgical treatment of the ailments of the human hand or foot, except the amputation of the foot, hand, toes or fingers, without the use of anaesthetics other than local. It shall also include the fitting or recommending of appliances, devices or shoes for the correction or relief of minor foot ailments.

Licensees under this article shall not use the title "doctor," except in connection with the word chiropody or chiropodists. [1917, c. 41, §10; Code 1923, c. 150, §30(10).]

Sec. 3. Qualifications of Applicant for License. — An applicant for license shall furnish to the public health council satisfactory proof that he is: (a) Twenty-one years of age, or over; (b) of good moral character; (c) a graduate of a school of chiropody registered by the state department of education as being of proper standard, or that he has been in the practice of chiropody in some other state for at least five years, and of good standing in such state, in which said state an examination is required by law equal to the requirements of this State, and that said applicant has taken the examination in said state and received a license therein; (d) possessed of a minimum education equivalent to two years' attendance at a high school recognized by the state department of education as being of proper standard; (e) a bona fide resident of the State of West Virginia at the time of application. [1917, c. 41, §3; Code 1923, c. 150, §30(3).]

Sec. 4. Examination for License; Issuance of License. — The public health council shall conduct examinations for license to practice chiropody at the times and places designated by it for conducting examinations for license to practice medicine. Examinations shall be in English, and in writing, and shall be of a scientific and practical character. They shall cover the subjects of anatomy and physiology of the foot, chemistry, materia medica, therapeutics and minor surgery, including bandaging. The public health council shall issue licenses to practice chiropody to successful applicants therefor. [1917, c. 41, §§2, 6; Code 1923, c. 150, §30(2) (6).]

Sec. 5. Offenses; Penalties. — Whoever, not being lawfully authorized to practice chiropody within the State of West Virginia, holds himself out as a practitioner of chiropody, or advertises himself as such, or whoever practices chiropody under a false or assumed name, or under a name other than that under which he has license to practice chiropody as aforesaid, or whoever impersonates another practitioner of a like or a different name, or whoever lends his name or has professional connection with anyone who has been convicted of any offense, as herein provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty nor more than two hundred dollars, or confined in the county jail not less than one nor more than four months or both, for each and every offense, and in addition the public health council may suspend or revoke his license for an indefinite period, but for not less than six months.

A person so convicted shall not be entitled to any fee for services rendered, and, if a fee has been paid, the patient or guardian or heir may recover the same as debts of like amount are now recovered by law. [1917, c. 41, §7; Code 1923, c. 150, §30(7).]

Sec. 6. Limitations of Article. — Nothing contained in this article shall be construed to prevent a registered practitioner of medicine in the State of West Virginia from practicing chiropody as a branch of his medical and surgical practice. [1917, c. 41, §8; Code 1923, c. 150, §30(8).]

ARTICLE 15. MIDWIVES

Sec.

Section 1. Duties of State Public Health Council; Rules and Regulations.—The state public health council, through the state health commissioner or a member of the state department of health designated by him, shall have charge of the instruction, examination, licensing and registration of midwives; shall prepare the necessary instructions, forms and blanks to be used in this work; shall, through its field agents and other representatives, visit from time to time the different parts of the State for the purpose of instructing and examining midwives, either individually or in groups; and shall procure the registration of each midwife with the local registrar of vital statistics. The state commissioner of health may make such rules and regulations as he may deem necessary to carry out the provisions of this article. [1925, c. 22, §§1, 5.]

Sec. 2. Definition of Midwife; Limitation of Article.—For the purposes of this article, a midwife shall be any person at least twenty-one years of age, other than a physician, who shall attend or agree to attend any woman at or during child-birth, and who shall accept any compensation or other remuneration for her services: *Provided*, That nothing contained in this article shall prevent a neighbor or friend from rendering assistance in such cases in an emergency. [1925, c. 22, §2.]

Sec. 3. License to Practice Midwifery; Qualifications of Applicants.—No person, other than a licensed physician, shall practice midwifery in the State of West Virginia unless such person shall be duly licensed to practice midwifery as hereinafter provided.

Every person, other than a licensed physician, who wishes to practice midwifery shall make written application to the state public health council for a license to practice midwifery. The application shall be

sworn to before a notary public and shall be accompanied by a registration fee of one dollar. Every applicant for a license to practice midwifery shall possess the following qualifications:

(a) She shall not be less than twenty-one years of age:

(b) She shall be able to read and write;

(c) She shall be clean and constantly show evidence, in general appearance and in her home, of habits of cleanliness;

(d) She shall either possess a diploma from a school of midwives recognized by the state commissioner of health, or shall have attended, under the instruction of a duly licensed and registered physician, not fewer than five mothers and new-born infants during lying-in periods of at least ten days each, and shall present a written statement from said physician or physicians that she has received such instruction in said five cases, with the name, date and address of each case, and establishing the fact that she is reasonably skillful and competent, to the satisfaction of the state commissioner of health;

(e) She shall present evidence satisfactory to the state public health council that she is of good moral character, has good health, and is free from communicable disease, in such form as the state commissioner of health, or such person designated by him, by rule or regulation may prescribe. [1925, c. 22, §3.]

Sec. 4. Registration of Midwife With Local Registrar of Vital Statistics.—Every licensed midwife shall register her name, address and license number with the local registrar of vital statistics of the district wherein she resides, within ten days after issuance of such license and after any change in her address. [1925, c. 22, §4.]

Sec. 5. Term of License; Annual Renewal.—Unless revoked, every license to practice midwifery issued by the state public health council shall permit the holder thereof to practice midwifery only during the current calendar year, being from January first in any one year to December thirty-first next succeeding. In December application for renewal of the license for the ensuing year shall be made to the state public health council. [1925, c. 22, §5.]

Sec. 6. Cases in Which Midwife May Practice; Acts Forbidden.—A duly licensed and registered midwife may practice midwifery in cases of normal labor. In cases where delivery has not been accomplished in twelve hours a physician shall be summoned at once.

All midwives are forbidden to:

(a) Make vaginal examinations;

(b) Use instruments of any kind to aid delivery;

(c) Assist labor by any artificial, forcible or mechanical means;

(d) Administer, advise, prescribe or employ dangerous or poisonous drugs. [1925, c. 22, §6.]

Sec. 7. Duty As to Rules of State Department of Health, Sanitary Code and Public Health Law.—All midwives to whom licenses shall be issued pursuant to the provisions of this article shall conform to all rules and regulations of the state department of health, the provisions of the sanitary code enacted by the public health council, and the provisions of the public health law of the State of West Virginia. [1925, c. 22, §7.]

Sec. 8. Roster of Midwives; Reports of Local Health Officers and Employees of State Department of Health as to Midwives.—The state commissioner of health is authorized to furnish to each local health officer a roster of all midwives practicing within his jurisdiction, and to require of such local health officer a report as to the conduct of the several midwives who may be practicing within his jurisdiction. It shall be the duty of such local health officer to report truthfully any and all matters pertaining to the conduct of any licensed and registered midwife practicing as such within his jurisdiction. All reports of such local health officers respecting the conduct of such midwives, and all reports of any employees of the state department of health relating to the conduct and deportment of midwives licensed in accordance with the provisions of this article, made in the course of and as part of the official duties of such employees of the state department of health, shall be deemed prima facie evidence of the facts detailed in said reports, and shall be deemed sufficient to justify the action of the state public health council in refusing to issue any license to any applicant therefor, where the information detailed in such reports of any local health officer, or in the reports of any employee of the state department of health, respecting the conduct of any midwife, in its judgment justifies the withholding of such a license to such applicant. [1925, c. 22, §7.]

Sec. 9. Revocation of License.—The state public council may, for cause, revoke any license to practice midwifery issued pursuant to the provisions of this article, after having given the midwife whose license is sought to be revoked an opportunity to be heard. [1925, c. 22, §7.]

Sec. 10. Certificates Without Examination.—All midwives practicing midwifery in this State for three years prior to the fifteenth day of April, nineteen hundred and twenty-five, who are residents of this State, of good moral character, clean in their habits and free from infectious diseases, after presenting letters of recommendation from two physicians of good standing or from two reputable citizens of this State by whom they have been employed, shall be given certificates by the state public health council, permitting them to practice midwifery in this State, without an examination. [1925, c. 22, §8.]

Sec. 11. Offenses; Penalties.—Any person, other than a licensed physician, who shall practice midwifery in this State without first being duly licensed so to practice, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five nor more than one hundred dollars.

ARTICLE 16. CHIROPRACTORS

Sec.

Section 1. Chiropractic Board of Examiners.—The state public health council, with the addition of two resident course graduated practicing chiropractors of integrity and ability, who shall be appointed by the governor as members of the public health council for the purposes set forth in this article, shall constitute the chiropractic board of examiners for the examination only of applicants for license to practice chiropractic.

The chiropractic members of the public health council in office on the date this Code takes effect shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and have qualified. On or before the first day of July, nineteen hundred and twenty-seven, and on or before the first day of July of each alternate year thereafter, the governor shall appoint one chiropractor to serve as member of the council for a term of four years, commencing on said first day of July. The governor shall also fill vacancies caused by death or otherwise as soon as practicable after the occurrence of such vacancy. [1925, c. 20, §1.]

Sec. 2. Application for License; Qualifications of Applicant.—Any person wishing to practice chiropratic in this State shall apply to the secretary of the public health council for a license so to practice. Each applicant shall be a graduate of a chiropractic school or college recognized by the American chiropractic association which teaches a resident course of at least three calendar years of eight months each and requires active attendance upon the same, and shall be a graduate of an accredited high school giving a four-year course or have an education equivalent to the same, and shall have attended for at least two years an academic college equal in standing to the West Virginia university, as preliminary education.

Each application shall be accompanied by a certificate from the school or college attended by the applicant, which certificate shall set forth in full the training of said applicant, showing his studies and the length of his clinical practice. The public health council shall require of all applicants satisfactory evidence of good moral character. [1925, c. 20, §§2, 3.]

Sec. 3. Examination by Medical and Chiropractic Members of Public Health Council.—Applicants to practice chiropractic in this State shall be examined by the medical physicians who are members of the state public health council in the following subjects: Anatomy, histology, physiology, pathology, symptomatology, physical diagnosis, hygiene, sanitation, chemistry and bacteriology.

The chiropractic members of the public health council shall give an examination in the following subjects: Chiropractic philosophy, chiropractic analysis, nerve tracing, palpation and the art of adjusting.

All applicants shall be required to secure an average grade of eighty per cent in all subjects: *Provided, however,* That sixty-five per cent shall be the minimum grade in any subject. [1925, c. 20 §§10, 11.]

Sec. 4. Licensing Chiropractors From Other States.—Persons licensed to practice chiropractic under the laws of any other state having requirements equivalent to those of this article, and extending like privileges to practitioners of this State, may, in the discretion of the state public health council, be licensed to practice in this State without examination. [1925, c. 20, §16.]

Sec. 5. Refusal to Issue, Suspension or Revocation of License.—The state public health council may refuse to grant, or may suspend or revoke, a license to practice chiropractic in this State upon any of the following grounds, to-wit: The employment of fraud or deception in applying for a license or in passing the examination provided for in this article; the practice of chiropractic under a false or an assumed name or the impersonation of another practitioner of like or different name;

the conviction of a crime involving moral turpitude; or habitual intemperance in the use of intoxicating liquors or narcotic drugs. In addition to the above stated grounds, the public health council shall revoke or refuse to grant a license to anyone practicing, under the guise of chiropractic, any health science or mode of healing other than chiropractic as defined in this article. [1925, c. 20, §4.]

Sec. 6. Fees.—Fees for examination and for issuing licenses to doctors of chiropractic shall be the same as in the case of the medical practitioners. [1925, c. 20, §14.]

Sec. 7. Who May Practice Chiropractic; Title of Chiropractor.—Every chiropractor who has complied with the provisions of this article shall thereupon be entitled to practice chiropractic in this State. The title of a chiropractor shall be doctor of chiropractic and shall be designated by the letters D. C. [1925, c. 20, §§5, 13.]

Sec. 8. Practice of Chiropractic Defined.—The practice of chiropractic is hereby defined as physical diagnosis, nerve tracing, palpation of the segments of the spinal column, and the adjustment of misaligned segments of the spinal column to their normal position for the purpose of relieving pressure upon spinal nerves. [1925, c. 20, §6.]

Sec. 9. Use of Mechanical Devices Prohibited; Exceptions.—The use of mechanical devices of any kind or any agency whatsoever other than the human hands, in giving chiropractic treatments, is prohibited in the practice of chiropractic, except the use of adjusting tables, and the employment of the X-ray which may be used only for the purpose of making pictures of the spine or segments of the spinal column, and only then by those who have completed the course and are in possession of a diploma in spinography issued by a regularly chartered school of chiropractic teaching spinography. [1925, c. 20, §7.]

Sec. 10. Duty of Chiropractor to Observe Health Regulations; Reports to Health Officer and Local Registrar of Vital Statistics.—Doctors of chiropractic shall observe and be subject to all state and municipal regulations in regard to the control of infectious diseases, and to any and all other matters pertaining to public health, and shall report to the public health officer in the same manner as is required of other practitioners. It shall further be the duty of doctors of chiropractic in this State to report to the registrar of vital statistics of his magisterial district, within ten days of its occurrence, any death which may come under his supervision, with a certificate of the cause of death and such correlative facts as may be at the time required by the state department of health. [1925, c. 20, §15.]

Sec. 11. Chiropractor Not Permitted to Perform Certain Acts; Exception.—No chiropractor shall be permitted to prescribe for any person any medicine or drugs now or hereafter included in materia medica, or to administer any such medicine or drugs; and no chiropractor shall perform any minor or major surgery, practice obstetrics or practice osteopathy, unless duly licensed to do so by the laws of this State in addition to his license to practice chiropractic. [1925, c. 20, §8.]

Sec. 12. Chiropractor Not to be Paid Fee Out of Workmen's Compensation Fund.—No practitioner of chiropractic in this or any other State shall be paid any fee out of the workmen's compensation fund, or any other fund administered under the provisions of the workmen's compensation act, for services rendered an injured workman whose employer has complied with the provisions of the workmen's compensation act. [1925, c. 20, §17.]

Sec. 13. Unlawful to Practice Chiropractic Without License.—It shall be unlawful for any person to practice chiropractic in this State without first having obtained a license so to do, or after revocation and before renewal of such license as provided in this article. [1925, c. 20, §9.]

Sec. 14. Offenses; Penalties.—Any person who shall practice or attempt to practice chiropractic in this State without a license to do so, or any person who shall buy, sell, or fraudulently obtain any diploma or license to practice chiropractic, whether recorded or not, or who shall use the title to induce belief that he is engaged in the practice of chiropractic without fully complying with the provisions of this article, or any person who shall violate any other provisions of this article, or who shall attempt to practice any of the arts of healing the sick by the practice of medicine or surgery in any of its branches, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty nor more than two hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than one year, or both, in the discretion of the court, and each day any person shall so violate any provision of this article shall constitute a separate offense. [1925, c. 20, §18.]

Sec. 15. Duties of Prosecuting Attorneys and Secretary of State Public Health Council.—It shall be the duty of the several prosecuting attorneys of this State to enforce the provisions of this article, and it shall be the duty of the secretary of the state public health council, under the direction of said council, to aid such attorneys in such enforcement. [1925, c. 20, §19.]

Chapter 48. Domestic Relations

ARTICLE I.

Section 6. Application for License; Requirements for Issuance of License. —Every license for marriage shall be issued by the clerk of the county court of the county in which the female to be married usually resides: *Provided, however,* That such license shall be issued not sooner than three days after the filing with said clerk of a written application therefor. The day upon which such application is filed shall be counted as the first day, but two full days shall elapse after the day of such filing before the license shall be issued: *Provided further,* That before any such license is issued each applicant therefor shall file with the clerk a certificate or certificates from any physician duly licensed in the state, stating that each party thereto has been given such examination, including a standard serological test, as may be necessary for the discovery of syphilis, made not more than thirty days prior to the date of such application, and stating that in the opinion of the physician the person therein named either is not infected with syphilis or, if so infected, is not in the state of the disease which is or may later become communicable. Such examinations and tests as are required hereunder may be given as provided by section nineteen, article four, chapter sixteen of this code. [Code 1849, c. 108, §1; Code 1860, c. 108 §1; Code 1863, c. 62, §1; 1872-3, c. 161, §1; Code 1923, c. 63, §1; 1937, c. 124; 1939, c. 81.]

The application for a marriage license shall contain a statement of the full name of both parties, their respective ages and their places of birth and residence. It shall be signed by one or the other of the parties to the contemplated marriage, and shall be verified by such party to be true to the best of his or her knowledge and belief; and shall be recorded in the register of marriages provided for in section eleven of this article. The date of its filing shall be noted in said register, which notation or a certified copy thereof shall be legal evidence of the facts therein contained.

To the extent otherwise provided by section six-c of this article, the provisions of this section shall not apply. No application for license shall be received nor any license issued on any Sunday, or before the hours of eight o'clock A. M. and after five o'clock P. M. on any week day.

Sec. 6-a. Standard Serological Test.—A standard serological test, for the purposes of section six, shall be a laboratory test for syphilis approved by the state commissioner of health, and shall be performed by the state department of health or by a laboratory approved for this purpose by the state department of health. [1939, c. 81.]

Sec. 6-b. Content and Form of Statements.—Each physician's statement, provided for in section six, shall be accompanied by a statement from the person in charge of the laboratory making the serological test, or from some other person authorized by the person in charge of such laboratory to make such statement, setting forth the name of the test, the date it was completed, and the name and address of the person whose blood was tested, but not stating the result of the test, and shall be attached to the application and forthwith filed with the licensing authority. The physician's statement and the laboratory statement shall be on the same form sheet. Upon a separate form, a detailed report of the laboratory test showing the result of the test shall be transmitted by the person in charge of the laboratory to the physician. [1939, c. 81.]

Sec. 6-c. Emergency or Extraordinary Circumstances.—In case of an emergency or extraordinary circumstances, as shown by affidavit or other proof, a judge of the circuit court of the county in which an application for a marriage license is to be filed may direct the clerk of the county court by order, duly entered in the office of the clerk of the circuit court, to issue such license at any time before the expiration of the three-day limit and to dispense with those requirements which relate to the filing with the licensing authority by either or both of the parties of the physician's certificate and laboratory statement. The order shall be accompanied by a written memorandum from the judge reciting his reason or reasons for granting the order.

The order and the accompanying memorandum shall be attached to and filed with the application by the licensing authority who shall thereupon proceed with the issuance of the marriage license in accordance with the terms of the judge's order. The licensing authority and his clerks and employees shall hold the contents of the judge's memorandum in absolute confidence. In the absence or incapacity to act of the judge of the circuit court of the county in which the application is to be filed, the order and accompanying memorandum may be made to the clerk of the county court of such county by the judge of any judicial circuit adjoining the circuit in which such county is situated. [1939, c. 81.]

Sec. 6-d. Penalties.—Any applicant for a marriage license, any physician or representative of a laboratory who shall knowingly misrepresent any of the facts called for in the physician's statement or laboratory report, respectively; and any licensing authority who shall make a false entry as to the date of application for a marriage license; and any licensing authority who shall issue a marriage license prior to the end of the required three-day period or without the required physician's statement and laboratory report (unless these shall have been dispensed with by judicial order pursuant to section six-c), or who shall issue such license despite his having reason to believe that any of the facts contained in said statement or report have been misrepresented, or shall issue a license on any Sunday or after five o'clock P. M. and before eight o'clock A. M. on any week day, shall be

guilty of a misdemeanor, and upon conviction shall be fined not less than two hundred nor more than one thousand dollars, or confined in jail for not less than three nor more than nine months, or both such fine and confinement in the discretion of the court. [1939, c. 81.]

Sec. 6-e. Provisions of Act Severable.—Each section of this act and every part thereof is hereby declared to be an independent section or part of a section, and if any section, subsection, sentence, clause or phrase of this act shall for any reason be held unconstitutional, the validity of the remaining phrases, clauses, sentences, subsections and sections of this act shall not be affected thereby. [1939, c. 81.]